The Complete Anti-Federalist

Edited, with Commentary and Notes, by

Herbert J. Storing

With the Assistance of Murray Dry

VOLUME 6

New York
and
Conclusion

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A Note on Cross References

For convenient cross reference, and without any other editorial purpose, a three-part number has been assigned to each paragraph (or group of paragraphs where they are brief) of the writings assembled in *The Complete Anti-Federalist*. The first number denotes the volume, the second the position of the essay or series within that volume, and the third the paragraph. A reference to, for example, Federal Republican 3.6.13 locates a passage in the Review of the Constitution Proposed by the Late Convention, by A Federal Republican, which can be found in volume 3 of this edition. These numbers are distinct from any numbering by the authors themselves or any of their publishers; Centinel III, 2.7.73 refers to the third letter of Centinel, in volume 2 above. The abbreviation "intro." is used for Storing's introductions to volumes or parts of volumes as well as the introductions to individual texts. A reference to, say, 2.8.intro. denotes the introductory sketch and outline of the Federal Farmer, located in volume 2. Cross references to volume 1 are by page number. A cross reference from one note to another uses a three-part number plus a note number, so that the reader may refer to the text as well as the note if necessary.

Murray Dry

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Crosskey, *Politics and the Constitution*	William W. Crosskey, *Politics and the Constitution in the History of the United States* (Chicago 1953)
Curtis, *Constitutional History*	George Ticknor Curtis, *Constitutional History of the United States: From Their Declaration of Independence to the Close of the Civil War* (New York 1889)
Dall.	Dallas' Pennsylvania and United States Reports, 1790–1800
Documentary History of the Constitution	*A Documentary History of the Constitution of the United States of America, 1786–1870; Derived from the Records, Manuscripts, and Rolls Deposited in the Bureau of Rolls and Library of the Department of State* (Washington, D.C., 1894–1905)
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Wheat.	Wheaton's United States Supreme Court Reports, 1816–27

PART 1

New York

Introduction

Two weeks after Virginia began her deliberations, the New York delegates convened in Poughkeepsie. As in Pennsylvania, but in sharp contrast to Virginia, two opposing parties existed whose prior differences carried over to the question of ratification. The New York Federalists were the party of the commercial and professional classes of New York City, allied through background, interest and marriage with the large landholders of upper New York State. The Clintonian party, forerunner of the Anti-Federalists, drew its leadership from the radical Whigs and was solidly based on the small farmers.[1]

Always fearful of any relinquishment of state authority, Governor Clinton acquiesced to the growing pressure for a constitutional convention. However the Clintonians showed greater political understanding than the Pennsylvania Constitutionalists and deliberately sent two opponents of greater central powers, John Lansing, Jr., and Robert Yates, to bracket Alexander Hamilton, who was warmly supported by the many Federalists in the Senate and was known for his advocacy of a stronger central government. With the publication of the proposed Constitution, the Anti-Federalists produced a stream of criticism. An Albany Anti-Federalist Committee circulated an address of its own as well as Mercy Warren's Columbian Patriot. General John Lamb, the customs inspector of the port of New York, headed an Anti-Federal group which called itself the Federal Republicans and attempted, unsuccessfully, to concert the plans of Anti-Federalists throughout the country, incidentally providing historians with valuable materials on the ratifying controversy.[2]

The Clinton strategy during the ratification debate remains obscure, and it is difficult to avoid the conclusion that Clinton's normally sure hand in local affairs deserted him on this broader scene. The New York Legislature, in the control of the Clintonians, issued a call for a ratifying convention to be elected by universal manhood suffrage to meet on 17 June, rejecting a proposed preamble to the effect that the Constitutional Convention had exceeded its powers. The Anti-Federalists secured an overwhelming success, electing 46 delegates to the Federalists' 19. Had Clinton arranged to hold the Convention early in the year, a rejection by New York would have been likely, with its inevitable effect on the other states. Clinton appears not to

have felt certain that he could carry his party for rejection, if that was indeed what he wanted.[3] He chose to delay. By mid-June, however, eight states had ratified, and mid-way in New York's deliberations New Hampshire and Virginia joined them. New York's unpopular economic policies might now bring retaliation backed by a strong union. There were rumors of secession by the southern counties if the state rejected the Constitution. Many Clintonians, including Melancton Smith, the dominant Anti-Federalist figure in the debate, were anxious to find grounds of agreement. Various compromises were suggested, and unconditional ratification together with explanatory provisions and recommendatory amendments was finally agreed to by the narrow margin of 30 to 25.[4] Accompanying the ratification was a circular letter from Clinton to the other governors urging a second convention to draft amendments to the Constitution.

1. On background and ratification in New York see Spaulding, *New York in the Critical Period;* Thomas Childs Cochran, *New York in the Confederation: An Economic Study* (Philadelphia 1932); Clarence Miner, *The Ratification of the Federal Constitution by the State of New York* (New York 1921); and especially DePauw, *The Eleventh Pillar.*

2. For a discussion of the activities of the Federal Republicans see Isaac Q. Leake, *Memoir of the Life and Times of General John Lamb* ch. 23, and DePauw, *The Eleventh Pillar.*

3. Edward Carrington wrote to Jefferson on 23 October 1787 that "the Governor holds himself in perfect silence, wishing, it is suspected, for a miscarriage, but is not confident enough to commit himself to an open opposition." Curtis, *Documentary History* IV, 345.

4. See DePauw, *The Eleventh Pillar* chs. 18, 19, who regards the ratification as in substance conditional.

Essays by Cincinnatus

NEW YORK JOURNAL
November–December 1787

The essay of A Democratic Federalist ends with a promise to take up on some future occasion the powers of the President and senate and the other parts of the new Constitution.[1] It is possible that the promised resumption is to be found in these Cincinnatus essays, published in late 1787 and widely reprinted in the northern states. There are some similarities—the early reference to the provision of the Articles of Confederation that what is not expressly given is reserved, the reference to the Zenger case, the allusion to the connection between civil law and ecclesiastical tyranny, the reliance of certain republics, notably Switzerland, on a militia, etc. On the other hand, these are fairly common Anti-Federalist themes, and there is no other evidence that the authors are the same. The essays differ somewhat in style, and of course, they appeared in different newspapers in different states. The Cincinnatus essays are, however, sufficiently related to the earlier piece that they may be said to "follow" it, whether or not written by the same hand.

The letters of Cincinnatus were often attributed at the time to Richard Henry Lee. Thus a correspondent in the *Massachusetts Gazette,* 7 December 1787, commented that "Richard Henry Lee passed through this town a few days ago, on his way to Virginia. He spent a whole evening in reading his Cincinnatusses, and in abusing Mr. Wilson and the new government, to a group of schoolboys and hostlers, who have since made themselves very merry at his expense." An extract of the fourth Cincinnatus essay, printed in the *Salem (Massachusetts) Mercury* 11 December 1787, is preceded by a note, "supposed to have been written by Richard Henry Lee, Esq., Delegate to Congress from the State of Virginia."[2] However, the argument and the style are not on the whole much like Lee's.[3]

These essays are the longest of the Anti-Federalist attacks on James Wilson's much discussed 6 October speech to the citizens of Philadelphia. The argument is not of especially high quality; it is orderly and fairly well reasoned, but at the same time it contains the denunciation and rhetorical excess of the more vulgar essays on both sides.

The essays begin with a lengthy discussion of the absence of a declaration

of rights (I, II, III), the inadequacy of Wilson's distinction between the state and general governments in this respect (6.1.4), the liberty of the press (I, 6.1.5–10; II, 6.1.11–12), the trial by jury (I, 6.1.7; II, 6.1.13–17; III, 6.1.19–22), and the right of conscience (III, 6.1.19).[4] There follows a discussion of Wilson's defense of the power to raise and maintain a standing army (III, 6.1.23–24; IV, 6.1.25). This discussion, although not identical with that of the Democratic Federalist, is a kind of recapitulation in somewhat looser and more popular terms of the main heads of the earlier essay. In his fourth and fifth essays, Cincinnatus turns to the "most exceptionable part of the Constitution—the senate." This was the matter not reached by A Democratic Federalist and provides the heart of Cincinnatus' case against the Constitution and the "monstrous aristocracy" it will establish. Cincinnatus discusses the undemocratic basis of the Senate (a rather unusual argument for the Anti-Federalists), its extensive powers, its participation in all of the important activities of government, and the inadequacy of the House of Representatives (IV, 6.1.26–29). He argues that the Senate is defective both in constitution and powers (IV, 6.1.30–34; V, 6.1.35). He warns that the proponents of the Constitution and the anti-democratic party in Pennsylvania see the Senate as a constitutional foundation for their aristocratic plans (V, 6.1.36–37). He scorns, finally, Wilson's contention that the Senate is an admirable compromise, considering the heterogeneous materials out of which it had to be made, arguing (in uncharacteristic fashion for an Anti-Federalist) the essential homogeneity of the United States (V, 6.1.38–39).

Cincinnatus goes on to refute Wilson's claim that state sovereignties will not be destroyed by the new Constitution (V, 6.1.40) and to deny, in an extensive discussion, Wilson's claim that the impost will probably suffice to meet federal needs (V, 6.1.41–43; VI, 6.1.44–55). In the course of this latter discussion, he makes the interesting suggestion that the weakness of the government under the Articles of Confederation may have been "a veil happily thrown over the inability of people; and that the large powers given to the new government, will to every eye, expose the nakedness of our land" (VI, 6.1.48). He presents a sharp discussion of Wilson's motives (VI, 6.1.50–52), and ends with a short discussion of the power of the federal Congress to alter the times, places, and manner of electing federal representatives.

1. See above, 3.5.13.

2. Samuel Bannister Harding reports that the letters of Cincinnatus were extensively copied in Massachusetts and were attributed to Lee. *Contest over Ratification* 17–18 n. 3. On the other hand, William Short wrote to Thomas Lee Shippen (31 May 1788), reporting that he learned "from Mr. Paradise that A Lee [presumably Arthur Lee, Richard Henry's brother] was the author" of Cincinnatus. Thomas L. Shippen Papers, Box 4, MSS Division, Library of Congress.

3. Jackson Turner Main contrasts the rather democratic Cincinnatus with the "moderates," among whom Lee is numbered. *The Antifederalists* 173–74, 177. See 6.1.38 n. 31.

4. A reply to this part of the argument was given by Anti-Cincinnatus in the Northampton, Massachusetts *Hampshire Gazette* 19 December 1787, reprinted in the *New York Journal* 29 December 1787.

Mr. Greenleaf,

A speech made to the citizens of Philadelphia, and said to be by Mr. WILSON, *appears to me to abound with sophistry, so dangerous, as to require refutation.*[1] *If we adopt the new Constitution, let us at least understand it. Whether it deserves adoption or not, we can only determine by a full examination of it, so as clearly to discern what it is that we are so loudly, I had almost said, indecently called upon to receive. Such an examination is the object of the papers which I am to entreat you to lay before the public, in answer to Mr. Wilson, and under the signature of—Cincinnatus.*

I

1 November 1787

To James Wilson, Esq.

Sir,

6.1.1 You have had the graciousness, Sir, to come forward as the defender and panegyrist of the plan of a new Constitution, of which you was one of the framers. If the defence you have thought proper to set up, and the explanations you have been pleased to give, should be found, upon a full and fair examination, to be fallacious or inadequate; I am not without hope, that candor, of which no gentleman talks more, will render you a convert to the opinion, that some material parts of the proposed Constitution are so constructed—that a *monstrous aristocracy springing from it, must necessarily swallow up the democratic rights of the union, and sacrifice the liberties of the people to the power and domination of a few.*

6.1.2 If your defence of this new plan of power, has, as you say, been matured by four months constant meditation upon it, and is yet so very weak, as I trust will appear, men will begin to think, that—the thing itself is indefensible. Upon a subject so momentous, the public has a right to the sentiments of every individual that will reason: I therefore do not think any apology necessary for appearing in print; and I hope to avoid, at least, the indiscriminate censure which you have, with so much candor and liberality, thrown on those who will not worship *your idol*—"that they are industriously endeavouring to prevent and destroy it, by insidious and clandestine attempts."[2] Give me leave just to suggest, that perhaps these clan-

destine attempts might have been owing to the terror of *your mob,* which so nobly endeavoured to prevent all freedom of action and of speech. The *reptile Doctor,* who was employed to blow the trumpet of persecution, would have answered the public reasoning of an opponent, by hounding on him the rage of a deluded populace.[3]

6.1.3 It was to such men, and under such impressions, that you made the speech which I am now to examine; no wonder then that it was received with loud and unanimous testamonies of their approbation. They were vociferating through you that panegyric of their own intemperate opinions.

6.1.4 Your first attempt is to apologize for so very obvious a defect as—the omission of a declaration of rights. This apology consists in a very ingenious discovery; that in the state constitutions, whatever is not reserved is given; but in the congressional constitution, whatever is not given, is reserved. This has more the quaintness of a conundrum, than the dignity of an argument. The conventions that made the state and the general constitutions, sprang from the same source, were delegated for the same purpose—that is, for framing rules by which we should be governed, and ascertaining those powers which it was necessary to vest in our rulers. Where then is this distinction to be found, but in your assumption? Is it in the powers given to the members of convention? no—Is it in the constitution? not a word of it:—And yet on this play of words, this dictum of yours, this distinction without a difference, you would persuade us to rest our most essential rights. I trust, however, that the good sense of this free people cannot be so easily imposed on by professional figments. The confederation, in its very outset, declares—that what is not expressly given, is reserved. This constitution makes no such reservation.[4] The presumption therefore is, that the framers of the proposed constitution, did not mean to subject it to the same exception.

6.1.5 You instance, Sir, the liberty of the press; which you would persuade us, is in *no* danger, though not secured, because there is no express power granted to regulate literary publications. But you surely know, Sir, that where general powers are expressly granted, the particular ones comprehended within them, must also be granted. For instance, the proposed Congress are empowered—to define and punish offences against the law of nations—mark well, Sir, if you please—to *define* and punish. Will you, will any one say, can any one even think that does not comprehend a power to define and declare all publications from the press against the conduct of government, in making treaties, or in any other foreign transactions, an offence against the law of nations? If there should ever be an influential president, or arbitrary senate, who do not choose that their transactions with foreign powers should be discussed or examined in the public prints, they will easily find pretexts to prevail upon the other branch to concur with them, in restraining what it may please them to call—the licentiousness of the press. And this may be, even without the concurrence of the represen-

tative of the people; because the president and senate are empowered to make treaties, and these treaties are declared the supreme law of the land.

What use they will make of this power, is not now the question. Certain it is, that such power is given, and that power is not restrained by any declaration—that the liberty of the press, which even you term, the sacred palladium of national freedom, shall be forever free and inviolable. I have proved that the power of restraining the press, is necessarily involved in the unlimited power of defining offences, or of making treaties, which are to be the supreme law of the land. You acknowledge, that it is not expressly excepted, and consequently it is at the mercy of the powers to be created by this constitution. 6.1.6

Let us suppose then, that what has happened, may happen again: That a patriotic printer, like Peter Zenger, should incur the resentment of our new rulers, by publishing to the world, transactions which they wish to conceal.[5] If he should be prosecuted, if his judges should be as desirous of punishing him, *at all events*, as the judges were to punish Peter Zenger, what would his innocence or his virtue avail him? This constitution is so admirably framed for tyranny, that, by clear construction, the judges might put the verdict of a jury out of the question. Among the cases in which the court is to have appellate jurisdiction, are—controversies, to which the United States are a party:—In this appellate jurisdiction, the judges are to determine, *both law and fact*. That is, the court is both judge and jury. The attorney general then would have only to move a question of law in the court below, to ground an appeal to the supreme judicature, and the printer would be delivered up to the mercy of his judges. Peter Zenger's case will teach us, what mercy he might expect. Thus, if the president, vice-president, or any officer, or favorite of state, should be censured in print, he might effectually deprive the printer, or author, of his trial by jury, and subject him to something, that will probably very much resemble the Star Chamber of former times. The freedom of the press, the sacred palladium of public liberty, would be pulled down;—all useful knowledge on the conduct of government would be withheld from the people—the press would become subservient to the purposes of bad and arbitrary rulers, and imposition, not information, would be its object. 6.1.7

The printers would do well, to publish the proceedings of the judges, in Peter Zenger's case—they would do well to publish lord Mansfield's conduct in, the King against Woodfall;[6]—that the public mind may be properly warned of the consequences of agreeing to a constitution, which provides no security for the freedom of the press, and leaves it controversial at least—whether in matter of libels against any of our intended rulers; the printer would even have the security of trial by jury. Yet it was the jury only, that saved Zenger, it was a jury only, that saved Woodfall, it can only be a jury that will save any future printer from the fangs of power. 6.1.8

Had you, Mr. Wilson, who are so unmerciful against what you are pleased 6.1.9

to call, the disingenuous conduct of those who dislike the constitution; had you been ingenuous enough to have stated this fairly to our fellow citizens; had you said to them—gentlemen, it is true, that the freedom of the press is not provided for; it is true, that it may be restrained at pleasure, by our proposed rulers; it is true, that a printer sued for a libel, would not be tried by a jury; all this is true, nay, worse than this is also true; but then it is all necessary to what I think, *the best form of government that has ever been offered the world.*

To have stated these truths, would at least have been acting like an honest man; and if it did not procure you such unanimous testimonies of approbation, what you would have received, would have been *merited.*

6.1.10 But you choose to shew our fellow citizens, nothing but what would flatter and mislead them. You exhibited, that by a rush-light only, which, to dissipate its darkness, required the full force of the meridian sun. When the people are fully apprized of the chains you have prepared for them, if they choose to put them on, you have nothing to answer for. If they choose to be tenants at will of their liberties, by the new constitution; instead of having their freehold in them, secured by a declaration of rights; I can only lament it. There was a time, when our fellow citizens were told, in the words of Sir Edward Coke—For a man to be tenant at will of his liberty, I can never agree to it—*Etiam si* Dominus *non sit molestus, tamen miserrimum est,* posse, *se velit*—Though a despot may not act tyrannically; yet it is dreadful to think, that if he *will,* he *may*.[7] Perhaps you may also remember, Sir, that our fellow citizens were then warned against those—"smooth words, with which the most dreadful designs may be glossed over."[8] You have given us a lively comment on your own text. You have varnished over the iron trap that is prepared, and *bated with some illustrious names, to catch the liberties of the people.*

Cincinnatus.

II

8 November 1787

To James Wilson, Esq.

Sir,

6.1.11 I have proved, sir, that not only some power is given in the constitution to restrain, and even to subject the press, but that it is a power totally unlimited; and may certainly annihilate the freedom of the press, and convert it from being the palladium of liberty to become an engine of imposition and tyranny. It is an easy step from restraining the press to making it place the

worst actions of government in so favorable a light, that we may groan under tyranny and oppression without knowing from whence it comes.

But you comfort us, by saying,—"there is no reason to suspect so popular a privilege will be neglected."[9] The wolf, in the fable, said as much to the sheep, when he was persuading them to trust him as their protector, and to dismiss their guardian dogs. Do you indeed suppose, Mr. Wilson, that if the people give up their privileges to these new rulers they will render them back again to the people? Indeed, sir, you should not trifle upon a question so serious—You would not have us to suspect any ill. If we throw away suspicion—to be sure, the thing will go smoothly enough, and we shall deserve to continue a free, respectable, and happy people. Suspicion shackles rulers and prevents good government. All great and honest politicians, *like yourself*, have reprobated it. Lord Mansfield is a great authority against it, and has often treated it as the worst of libels. But such men as Milton, Sidney, Locke, Montesquieu, and Trenchard, have thought it essential to the preservation of liberty against the artful and persevering encroachments of those with whom power is trusted. You will pardon me, sir, if I pay some respect to these opinions, and wish that the freedom of the press may be *previously* secured as a *constitutional* and *unalienable right*, and not left to the precarious care of popular privileges which may or may not influence our new rulers. You are fond of, and happy at, quaint expressions of this kind in your observation—that a formal declaration would have done harm, by implying, that some degree of power was given when we undertook to define its extent. This thought has really a brilliancy in it of the first water. But permit me, sir, to ask, why any saving clause was admitted into this constitution, when you tell us, every thing is reserved that is not expressly given? Why is it said in sec. 9th, "The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by Congress, prior to the year, 1808." There is no power expressly given to the Congress to prohibit migrations and importations. By your doctrine then they could have none, and it was, according to your own position, nugatory to declare they should not do it.[10] Which are we to believe, sir,—you or the constitution? The text, or the comment. If the former, we must be persuaded, that in the contemplation of the framers of the constitution implied powers were given, otherwise the exception would have been an absurdity. If we listen to you we must affirm it to be a distinctive characteristic of the constitution, that—"what is not expressly given is reserved." Such are the inconsistencies into which men over ingenuous, like yourself, are betrayed in advocating a bad cause. Perhaps four months more consideration of the subject, would have rendered you more guarded. 6.1.12

I come now to the consideration of the trial by jury in civil cases. And here you have, indeed, made use of your professional knowledge—But you did not tell the people that your profession was always to advocate one side 6.1.13

of a question—to place it in the most favorable, though false, light—to rail where you could not reason—to pervert where you could not refute—and to practice every fallacy on your hearers—to mislead the understanding and pervert judgment. In light of this professional practice, you make a refutable objection of your own, and then triumphantly refute it. The objection you impute to your opponents is—the trial by jury is abolished in civil cases. This you call a disingenuous form—and truly it is very much so on your part and of your own fabrication. The objection in its true form is, that—trial by jury is not secured in civil cases. To this objection, you could not possibly give an answer; you therefore ingenuously coined one to which you could make a plausible reply. We expected, and we had a right to expect, that such an inestimable privilege as this would have been secured—that it would not have been left dependent on the arbitrary exposition of future judges, who, when it may suit the arbitrary views of the ruling powers will explain it away at pleasure. We may expect Tressellians, Jeffree's and Mansfield's here, and if they should not be native with us, they may possibly be imported.

6.1.14 But, if taken even on your own ground it is not so clearly tenable. In point of legal construction, the trial by jury does seem to be taken away in civil cases. It is a law maxim, that the expression of one part is an exclusion of the other. In legal construction therefore, the preservation of trial by jury in criminal, is an exclusion of it in civil cases. Why else should it be mentioned at all? Either it followed of course in both cases, or it depended on being stipulated. If the first, then the stipulation was nugatory—if the latter, then it was in part given up. Therefore, either we must suppose the Convention did a nugatory thing; or that by the express mention of jury in criminal, they meant to exclude it in civil cases. And that they did intend to exclude it, seems the more probable, as in the appeal they have taken special care to render the trial by jury of no effect by expressly making the court judges both of law and fact. And though this is subjected to the future regulation of Congress, yet it would be absurd to suppose, that the regulation meant its annihilation. We must therefore conclude, that in appeals the trial by jury is expressly taken away, and in original process it is by legal implication taken away in all civil cases.

6.1.15 Here then I must repeat—that you ought to have stated fairly to the people, that the trial by jury was not secured; that they might know what, it was they were to consent to; and if knowing it, they consented, the blame could not fall on you. Before they decide, however, I will take leave to lay before them the opinion of the great and revered Judge Lord Camden, whose authority is, I hope, at least equal to that of Mr. Wilson.—"There is, says he, scarce any matter of challenge allowed to the judge, but several to the jurors and many of them may be removed without any reason alledged." This seems to promise as much impartiality as human nature will admit, and absolute perfection is not attainable, I am afraid, either in judge or jury or any thing else. The trial by [jury in] our country, is in my opinion, the great

bulwark of freedom, and for certain, the admiration of all foreign writers and nations. The last writer of any distinguished note, upon the principles of government, the celebrated Montesquieu, is in raptures with this peculiar perfection in the English policy. From juries running riot, if I may so, and acting wildly at particular seasons, I cannot conclude, like some Scottish Doctors of our law and constitutions, that their power should be lessened. This would, to use the words of the wise, learned, and intrepid Lord Chief Justice Vaughan, be—"a strange newfangled conclusion, after a trial so celebrated for so many hundreds of years."[11]

Such are the opinions of Lord Camden and Vaughan, and multitudes of the first names, both English and other foreigners[,] might be cited, who bestow unbounded approbation on this best of all human modes for protecting, life, liberty, and property.

I own then, it alarms me, when I see these Doctors of our constitutions 6.1.16
cutting in twain this sacred shield of public liberty and justice. Surely my countrymen will think a little before they resign this strong hold of freedom. Our state constitutions have held it sacred in all its parts. They have anxiously secured it. But that these may not shield it from the intended destruction in the new constitution, it is therein as anxiously provided, that "this constitution, and the laws of the United States, which shall be made in pursuance thereof; or which shall be made under the authority of the United States, shall be the supreme laws of the land; and the judges in every state, shall be bound thereby; any thing in the constitution and laws of any state, to the contrary notwithstanding."

Thus this new system, with one sweeping clause, bears down every con- 6.1.17
stitution in the union, and establishes its arbitrary doctrines, supreme and paramount to all the bills and declarations of rights, in which we vainly put our trust, and on which we rested the security of our often declared, unalienable liberties. But I trust the whole people of this country, will unite, in crying out, as did our sturdy ancestors of old—*Nolumus leges anglica mutari.*[12]—We will not part with our birthright.

Cincinnatus.

III
15 November 1787

To James Wilson, Esq.

Sir,

Your speech has varnished an iron trap, bated with some illustrious 6.1.18
names, to catch the liberties of the people. And this you are pleased to call a

constitution—"the best form of government that was ever offered to the world."[13] May Heaven then have mercy on the world and on us. And in this prayer, I am persuaded, you will join me when you come to consider temperately, the unbounded powers given to this best of all possible governments; and then recollect, from your reading, what horrible abuses have grown from too unlimited a confidence of the people in their rulers. It is always both easier and safer, to add to powers, which are found to be insufficient, then to recal those which are injuriously large. This is a maxim, which no people, who mean to be free, should ever forget. While the people have something to give, they will be respected by their rulers. When with Cappadocian baseness, they resign all at once, they will be deemed fit only to be hewers of wood and drawers of water.

6.1.19 In my former papers, I have shewn, that the freedom of the press is left at the mercy of the proposed government—that the sacred trial by jury, in civil cases, is at best doubtful; and in all cases of appeal expressly taken away. In equal insecurity, or rather equally at mercy, are we left as to—liberty of conscience. We find nothing that regards it, except the following;—"but no religious test shall ever be required as a qualification to any office or public trust under the United States." This exception implies, and necessarily implies, that in all other cases whatever liberty of conscience may be regulated. For, though no such power is expressly given, yet it is plainly meant to be included in the general powers, or else this exception would have been totally unnecessary—For why should it be said, that no religious test should be required as a qualification for office, if no power was given or intended to be given to impose a religious test of any kind? Upon the omission of the trial by jury in civil cases, you observe—"when this subject was in discussion, we were involved in difficulties which pressed on all sides, and no precedent could be discovered to direct our course. The cases open to trial by jury differed in the different states, it was therefore impracticable on that ground to have made a general rule."[14]—So, because the extent of the trial by jury varied in the different states, therefore it was proper to abolish it in all. For what else can your words—"it was impracticable to have made a general rule" mean?—If ever the rule is made, it must be general. And if this is impracticable—it surely follows, that in the fœderal court we must go without it in civil cases. What sense is there in supposing, that what, for the reasons you alledge, was impracticable with the Convention, will be practicable with the Congress? What faculty can the one body have more than the other, of reconciling contradictions? But the sophistry of this excuse consists in the word *made—make* you might not, but surely nothing hindered your *proposing* the general rule, which, if approved by the several state Conventions, would *make* the rule. You have made nothing. You have only proposed. It rests with the several Conventions, to make your propositions, rules. It is not possible to say, that the Convention could not have proposed, that there should be one similar general mode of trial by jury in

the Fœderal court in all cases whatever. If the states would not have acceded to the proposition, we should only be where we are. And that this trial by jury is best, even in courts where the civil law process now prevails, I think no unbigoted man can doubt. Judge Blackstone is so explicit on this head, that I need only quote him to enforce conviction on every unprejudiced mind.—"This open examination of witnesses viva voce, in the presence of all mankind, is much more conducive to the clearing up of truth, than the private and secret examination taken down in writing before an officer, or his clerk, in the ecclesiastical courts, and all others that have borrowed their practice from the civil law; where a witness may frequently depose that in private which he will be ashamed to testify in a public and solemn tribunal. Where an artful or careless scribe may make a witness speak what he never meant, by dressing up his depositions in his own forms and language; but he is here at liberty to correct and explain his meaning, if misunderstood, which he can never do after a written deposition is once taken. Besides the occasional questions of his judge, the jury, and the counsel, propounded to the witnesses on a sudden, will sift out the truth much better than a formal set of interrogatories previously penned and settled; and the confronting of adverse witnesses is also another opportunity of obtaining a clear discovery, which can never be had on any other method of trial. Nor is the presence of the judge, during the examination, a matter of small importance; for besides the respect, &c. with which his presence will naturally inspire the witness, he is able by use and experience to keep the evidence from wandering from the point in issue. In short, by this method of examination, and this only, the persons who are to decide upon the evidence, have an opportunity of observing the quality, age, education, understanding, behaviour, and inclinations of the witness; in which points all persons must appear alike, when their depositions are reduced to writing and read to the judge, in the absence of those who made them; and yet as much may be frequently collected from the manner in which the evidence is delivered as from the matter of it. These are a few of the advantages attending this way of giving testimony oretenus; which was also, indeed, familiar among the ancient Romans."[15]

They who applaud the practice of civil law courts, must either have seen very little of such practice not to know that it is liable to infinite fraud, corruption, and oppression. As far as it prevails in the English system of jurisprudence, from which we derive ours, it is a remnant of ecclesiastical tyranny. The free and pure part of the system, that is the common law courts, have ever cautiously guarded against its encroachments, and restrained its operation. All great judges have reprobated it, except Lord Mansfield. He indeed, has been as desirous of extending it in England, as he was of extending parliamentary power into America; and with the same view—to establish tyranny. This noble Lord's principles, if we may judge from the proposed constitution, has too many admirers in America. 6.1.20

6.1.21 But I shall be told, that almost all the nations in Europe have adopted the civil law. This is true; and it is equally true, that almost all European nations have adopted arbitrary power with the civil law. This ought to be a warning to us how we admit it, even as England has done. It would never have been admitted there, but from the ecclesiastical influence in the days of superstition. This, thank Heaven, is now no more; and I sincerely wish its offspring was also extinct.

6.1.22 I have been thus particular on the subject of civil law, to shew how little propriety there was in leaving it upon as respectable a foot, as the common law, in civil cases. In fact, the constitution leaves them both to shift for themselves, in original process, and in appeal seems to favor the former by placing both law and fact, in the arbitrament of the judges.

6.1.23 Upon standing armies, sir, your professional dexterity has not abandoned you. The Constitution proposes to give the power of raising and supporting armies—and this without any limitation as to number; and to appropriate money to that object for two years at a time. This you justify by saying, that you "do not know a nation in the world which has not found it necessary and useful to maintain the appearance of strength, in a season of profound tranquility":[16] your knowledge then, sir, has not extended to free nations. Your phraseology, it is true, is somewhat equivocal; but unless by the term, appearance of strength, we understand, a standing army, we must suppose you to have meant a disingenuous evasion. Your reading might have informed you, sir,—that the Grecian republics, while free, never kept up any standing army—that the Roman republic, while free, never kept up a standing army, but that with them, a standing army and tyranny were co-eval, and concomitant—that in the free Swiss Cantons, no standing army, was ever, or is now permitted; no, sir, in all these great and glorious republics, though surrounded with enemies, their military array was occasional, or at the utmost, annual; nor was there formerly, nor is there now, in the Swiss Cantons, any more appearance of strength kept up in time of peace, than their militia gives: and yet they are free and formidable.

6.1.24 You say a standing army has always been, "a topic of popular declamation."[17] Is it indeed nothing more, sir? Is that which all free nations have studiously avoided, as the rock on which their liberties would suffer shipwreck; that which in fact, is the source and security of tyranny; that which all great political writers concur in condemning; that which has animated the ardor, and inflamed the eloquence of the first orators in the two houses of parliament, in Great-Britain—that which all the art and influence of the crown could never obtain from the people for more than a year—is all that, sir, nothing more but a topic of popular declamation? Is it surprising, that such knowledge, and such sentiments, as this declaration holds out, should have given us such a constitution? But the weightiest reason is, that without a standing army, "the government must declare war, before they are prepared to carry it on."[18] This is without question a most warlike paragraph:

whether we are to invade Great-Britain, France, Spain, Portugal, or all together, under the new constitution, and with the standing army it has given, you have not been pleased to inform us. To do this, a navy too will be necessary, and I see no provision for that: however, I suppose that, as well as every thing else, is included in the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing, and all other powers vested by this constitution, in the government of the United States, or in any department or officer thereof." Let then the people rightly understand, that one blessing of the constitution will be, the taxing them to support fleets and armies to conquer other nations, against whom the ambition of their new rulers may declare war.

Cincinnatus.

IV

22 November 1787

To James Wilson, Esq.

Sir,

The public appear to me, sir, to be much indebted to you, for informing them; for what purpose a power was given by the proposed Constitution, of raising and supporting armies.—Some, indeed, might have suspected, that such a power, uncontrouled by any declaration, that the military should always be subject to the civil power, might be intended for the purposes of ambition. Your declaration has removed all doubt. Every principle of policy, you say, would be subverted unless we kept up armies—for what—for our defence?—no,—to support declarations of war—to strike home, with dispatch and secrecy, before the enemy can be apprized of your intention. Upon the same principle a small army would be rediculous. Nothing less than the Prussian number, about 200,000 men would embrace this salutary object. And as you now say—"no man that regards the dignity and safety of his country can deny the necessity of a military force."[19]—You will next affirm, that no one, for the same reason, can deny the necessity of a large army. The safety of the country, we have already experienced to depend, upon the militia. Switzerland has often experienced the same. Why then, sir, should you be so very positive, that for this purpose a military force is necessary?—But for the dignity of the country, that is for the ambition of its rulers, armies I confess are necessary; and not less in number than other ambitious rulers maintain, by grinding the face of the people. For every thousand in these armies a million of dollars must be levied upon the public, and such armies—raised and supported, would at once maintain the dignity 6.1.25

of government, and ensure the submission of the people. We shall be as dignified as the Turks, and equally free.—The sole power of voting men, and money, is retained by the representative of the people in England. This is their shield and their defence against arbitrary power. Never has the King been able to obtain the extension of this vote beyond a year. But we are called upon, with all the solemnity of a constitutional act, to give it up for two years. And yet, sir, you talk of the controul and the restrictions which the new Constitution provides. There is, I confess, some dexterity in the negative terms in which this power is conceived—not more than two years. But what the Constitution permits, and what it grants are essentially the same. And since it seemed necessary to this almost all confiding Convention, to limit our confidence in this particular, the only rule that observation suggests is, that of England; where this confidence has never exceeded one year.

6.1.26 I come now, sir, to the most exceptionable part of the Constitution—the senate. In this, as in every other part, you are in the line of your profession, and on that ground assure your fellow citizens, that—"perhaps there never was a charge made with less reason, than that which predicts the institution of a baneful aristocracy in the Fœderal Senate."[20] And yet your conscience smote you, sir, at the beginning, and compelled you to prefix a—perhaps to this strange assertion. The senate, you say, branches into two characters—the one legislative and the other executive. This phraseology is quaint, and the position does not state the whole truth. I am very sorry, sir, to be so often obliged to reprehend the suppression of information at the moment that you stood forth to instruct your fellow citizens, in what they were supposed not to understand. In this character, you should have abandoned your professional line, and told them, not only the truth, but the whole truth. The whole truth then is, that the same body, called the senate, is vested with—legislative—executive—and judicial powers. The two first you acknowledge; the last is conveyed in these words, sec. 3d. The senate shall have the sole power to try all impeachments. On this point then we are to come to issue—whether a senate so constituted is likely to produce a baneful aristocracy, which will swallow up the democratic rights and liberties of the nation.

6.1.27 To judge on this question, it is proper to examine minutely into the constitution and powers of the senate; and we shall then see with what anxious and subtle cunning it is calculated for the proposed purpose. 1st. It is removed from the people, being chosen by the legislatures—and exactly in the ratio of their removal from the people, do aristocratic principles constantly infect the minds of man.[21] 2d. They endure, two thirds for four, and one third for six years, and in proportion to the duration of power, the aristocratic exercise of it, and attempts to extend it, are invariably observed to increase. 3d. From the union of the executive with the legislative functions, they must necessarily be longer together, or rather constantly assem-

bled; and in proportion to their continuance together, will they be able to form effectual schemes for extending their own power, and reducing that of the democratic branch. If any one would wish to see this more fully illustrated, let him turn to the history of the Decemviri in Rome. 4th. Their advice and consent being necesssary to the appointment of all the great officers of state, both at home and abroad, will enable them to win over any opponents to their measures in the house of representatives, and give them the influence which, we see, accompanies this power in England; and which, from the nature of man, must follow it every where. 5th. The sole power of impeachment being vested in them, they have it in their power to controul the representative in this high democratic right; to screen from punishment, or rather from conviction, all high offenders, being their creatures, and to keep in awe all opponents to their power in high office. 6th. The union established between them and the vice president, who is made one of the corps, and will therefore be highly animated with the aristocratic spirit of it, furnishes them a powerful shield against popular suspicion and enquiry, he being the second man in the United States who stands highest in the confidence and estimation of the people. And lastly, the right of altering or amending money-bills, is a high additional power given them as a branch of the legislature, which their analogous branch, in the English parliament, could never obtain, because it has been guarded by the representatives of the people there, with the most strenuous solicitude as one of the vital principles of democratic liberty.

Is a body so vested with means to soften & seduce—so armed with power to screen or to condemn—so fortified against suspicion and enquiry—so largely trusted with legislative powers—so independent of and removed from the people—so tempted to abuse and extend these powers—is this a body which freemen ought ever to create, or which freemen can ever endure? Or is it not a monster in the political creation, which we ought to regard with horror? Shall we thus forge our own fetters? Shall we set up the idol, before which we shall soon be obliged, however reluctantly, to bow? Shall we consent to see a proud aristocracy erect his domineering crest in triumph over our prostrate liberties? 6.1.28

But we shall yet see more clearly, how highly favored this senate has been, by taking a similar view of the representative body. This body is the true representative of the democratic part of the system; the shield and defence of the people. This body should have weight from its members, and the high controul which it should also possess. We can form no idea of the necessary number in this untried system, to give due weight to the democratic part, but from the example of England. Had it not been intended to humble this branch, it would have been fixed, at least, at their standard. We are to have one representative for every thirty thousand—they have nearly one for ten thousand souls. Their number is about six millions; their representatives five hundred and fifteen. When we are six millions, we shall have 6.1.29

only two hundred representatives. In point of number therefore and the weight derived from it, the representative proposed by the constitution is remarkably feeble. It is farther weakened by the senate being allowed not only to reject, but to alter and amend money-bills. Its transcendent and incommunicable power of impeachment—that high source of its dignity and controul—in which alone the majesty of the people feels his sceptre, and bears aloft his fasces—is rendered ineffectual, by its being triable before its rival branch, the senate, the patron and prompter of the measures against which it is to sit in judgment. It is therefore most manifest, that from the very nature of the constitution the right of impeachment apparently given, is really rendered ineffectual. And this is contrived with so much art, that to discover it you must bring together various and distant parts of the constitution, or it will not strike the examiner, that the same body that advises the executive measures of government which are usually the subject of impeachment, are the sole judges on such impeachments. They must therefore be both party and judge, and must condemn those who have executed what they advised. Could such a monstrous absurdity have escaped men who were not determined, at all events, to vest all power in this aristocratic body? Is it not plain, that the senate is to be exalted by the humiliation of the democracy? A democracy which, thus bereft of its powers, and shorn of its strength; will stand a melancholy monument of popular impotence.

6.1.30 Hitherto I have examined your senate by its intrinsic and its comparative powers. Let us next examine, how far the principles of its constitution are compatible with what our own constitutions lay down, and what the best writers on the subject have determined to be essential to free and good government.

6.1.31 In every state constitution, with a very trifling exception in that of Massachusetts, the legislative and executive powers are vested in different and independent bodies.—Will any one believe, that it is because we are become wiser, that in twelve years we are to overthrow every system which reason and experience taught us was right. Or is it, that a few men, forming a plan at Philadelphia subversive of all former principles, then posting to Congress, and passing it there, and next dispersing themselves in the several states to propagate their errors, and, if they can, get chosen into the state conventions; are actuated by motives of interest and bad ambition? I should be very unwilling to believe the latter, and yet it is utterly incomprehensible, how such a systematic violation of all that has been deemed wise and right, from which no other result can be expected, but the establishment of a baneful aristocracy, could have been recommended to a free and enlightened people.

6.1.32 "Lorsque dans la meme personne, says Montesquieu, ou dans le meme corps de magistrature, la puissance legislative est re-unie a la puissance executive; il n'y a point de liberte; parcequ'on peut craindre que le meme monarque, ou le meme Senat ne fasse des loix tyranniques, pour les execu-

ter tyranniquement." "When the legislative and executive powers are united in the same person, or in the same corps, there can be no liberty. Because, it may be feared, that the same monarch or senate will make tyrannical laws, that they may execute them tyrannically."[22] I am aware that this great man is speaking of a senate being the whole legislative; whereas the one before us is but a branch of the proposed legislaure. But still the reason applies, inasmuch as the legislative power of the senate will enable it to negative all bills that are meant to controul the executive, and from being secure of preventing any abridgment, they can watch every pliant hour of the representative body to promote an enlargement of the executive power. One thing at least is certain, that by making one branch of the legislature participant in the executive, you not only prevent the legislature from being a check upon the executive, but you inevitably prevent its being checked or controuled by the other branch.

To the authority of Montesquieu, I shall add that of Mr. de Lolme; whose 6.1.33
disquisition on government, is allowed to be deep, solid, and ingenious. Il ne suffisoit pas, says he, d'oter aux legislateurs l'execution des loix, par consequent, l'exemption qui en est la suite immediate; il falloir encore, leur oter ce qui eut produit les memes effects—l'espoir de jamais se l'attribuer—["]It is not only necessary to take from the legislature the executive power which would exempt them from the laws; but they should not have even a hope of being ever able to arrogate to themselves that power."[23] To remove this hope from their expectation, it would have been proper, not only to have previously laid down, in a declaration of rights, that these powers should be forever separate and incommunicable; but the frame of the proposed constitution, should have had that separation religiously in view, through all its parts. It is manifest this was not the object of its framers, but, that on the contrary there is a studied mixture of them in the senate as necessary to erect it into that potent aristocracy which it must infallibly produce. In pursuit of this darling object, than which no greater calamity can be brought upon the people, another egregious error in constitutional principles is committed. I mean that of dividing the executive powers, between the senate and the president. Unless more harmony and less ambition should exist between these two executives than ever yet existed between men in power, or than can exist while human nature is as it is: this absurd division must be productive of constant contentions for the lead, must clog the execution of government to a mischievous, and sometimes to a disgraceful degree, and if they should unhappily harmonize in the same objects of ambition, their number and their combined power, would preclude all fear of that responsibility, which is one of the great securities of good, and restraints on bad governments. Upon these principles M. de Lolme has foreseen that "the effect of a division of the executive power is the establishment of absolute power in one of continual contention"; he therefore lays it down, as a general rule "pour q'un etat soit tranquille il faut que le pouvoir executif

y soit reunie''—for the tranquility of the state it is necessary that the executive power should be in one.[24] I will add, that this singlehood of the executive, is indispensably necessary to effective execution, as well as to the responsibility and rectitude of him to whom it is entrusted.

6.1.34 By this time I hope it is evident from reason and authority, that in the constitution of the senate there is much cunning and little wisdom; that we have much to fear from it, and little to hope, and then it must necessarily produce a baneful aristocracy, by which the democratic rights of the people will be overwhelmed.

It was probably upon this principle that a member of the convention, of high and unexceeded reputation for wisdom and integrity, is said to have emphatically declared, that *he would sooner lose his right hand, than put his name to such a constitution.*[25]

Cincinnatus.

V
29 November 1787

To James Wilson, Esq.

Sir,

6.1.35 In my former observations on your speech, to your fellow-citizens, explanatory and defensive of the new constitution; it has appeared, by arguments to my judgment unanswerable, that by ratifying the constitution, as the convention proposed it, the people will leave the liberty of the press, and the trial by jury, in civil cases, to the mercy of their rulers—that the project is to burthen them with enormous taxes, in order to raise and maintain armies, for the purposes of ambition and arbitrary power—that this power is to be vested in an aristocratic senate, who will either be themselves the tyrants, or the support of tyranny, in a president, who will know how to manage them, so as to make that body at once the instrument and the shield of his absolute authority.—Even the Roman Emperors found it necesssary to have a senate for this purpose. To compass this object, we have seen powers, in every branch of government, in violation of all principle, and all safety condensed in this aristocratic senate: we have seen the representative, or democratic branch, weakened exactly in proportion to the strengthening the aristocratic, or, what means the same thing, and will be more pleasing to your ear, Mr. Wilson, the republican branch. We have seen with what cunning the power of impeachment is apparently given to the representative of the people, but really to the senate; since, as they advise these measures of government, which experience has shewn, are the general

matters of impunity the executive officers will be sure of impeachment when they act in conformity to their will. Impeachment will therefore have no terrors, but for those who displease or oppose the senate.

Let us suppose that the privy councils who advise the executive government in England, were vested with the sole power of trying impeachments; would any man say that this would not render that body absolute; and impeachment to all popular purposes, negatory? I shall appeal to those very citizens, Mr. Wilson, whom you was misleading, for the propriety of what I am going to observe. They know that their constitution was democratic—that it secured the powers of government in the body of the people.[26] They have seen an aristocratical party rise up against this constitution, and without the aid of such a senate, but from the mere influence of wealth, however unduly obtained, they have seen this aristocracy, under the originatical title of republicans, procure such a preference in the legislature, as to appoint a majority of the state members in the late convention, out of their body. Had such a senate, as they have now proposed, been part of your constitution, would the popular part of it, have been to effect more than a name. Can your fellow citizens then doubt that these men planned this senate, to effect the very purpose which has been the constant object of their endeavors, that is to overthrow the present constitution. And can you, O citizens of Philadelphia, so soon forget the constitution which you formed, for which you fought, which you have solemnly engaged to defend—can you so soon forget all this, as to be the willing ministers of that ambition, which aims only at making you its footstool—the confirmers of that constitution, which gives your aristocratic enemies their wish, and must trample your state constitution in the dust. Reflect a moment—who wish to erect an aristocracy among you—Mr. Wilson and his party; who were your delegates in framing the constitution now proposed to you—Mr. Wilson, and his party; who harangues you to smooth its passage to your approbation—Mr. Wilson; who have you chosen to approve of it in your state convention—Mr. Wilson.—O sense where is your guard! shame where is your blush! the intention of a state convention is, that a work of so great moment to your welfare, should undergo an examination by another set of men, uninfluenced by partiality or prejudice in its favor. And for this purpose you are weak enough to send a man, who was in the former convention, and who has not only signed his approbation of it, but stands forward as an agitator for it: is this man unprejudiced? would any man who did not suffer party to overcome all sense of rectitude, solicit or accept so improper a trust? He knows, in the line of his profession, that the having given an opinion upon the same question is a constant ground of challenge to a juryman. And does he think that this question is of less importance and ought less to be guarded against partiality and prejudice, than a common jury cause? He knows that a conscientious man will not sit as a juryman twice on the same cause: and is he in this most momentous cause, less conscientious than a common jury- 6.1.36

man? What are we to expect from the work of such hands? But you must permit me to lay before you, from your own transactions, farther proofs of Mr. Wilson's consistency, and of his sacred attention to your rights, when he counsels you to adopt the new constitution.

6.1.37 You know that he was one of the convention that formed, and recommended to you, your state constitution. Read what is there laid down as a fundamental principle of liberty—"As standing armies, in the time of peace, *are dangerous to liberty*, they ought not to be kept up."[27] Read now what this identical Mr. Wilson says to you in his speech—"This constitution, it has been farther urged, is of a pernicious tendency, because it tolerates a standing army in time of peace. This has always been a topic of popular declamation, and yet I do not know a nation in the world, which has not found it necessary and useful to maintain the appearance of strength, in a season of the most profound peace."[28] What a change of tone is here.—Formerly the mischief of standing armies was of sufficient moment, to find a place in a most solemn recognition of the fundamental rights of the people; standing armies were dangerous to liberty; but *now* they are only a topic of popular declamation, and are both useful and necessary in a season of the most profound tranquility:—O citizens of Philadelphia! do you hear, do you read, do you reflect? can you believe that the man means either wisely or honestly, who thus palpably contradicts himself, who treats with such levity, what your constitution declares to be one of your most sacred rights; and who betrays so little knowledge of ancient and modern history, as not to know, that some of the freest republics in the world, never kept up a standing army in time of peace! Can you, O deluded men, not see that the object of all this, is to fix upon you, with your own consent, a strong government that will enable a few proud, intriguing, aristocratical men, to make you the instruments of their avarice and ambition, and trample upon your privileges at pleasure. Your privileges, did I say, I beg your pardon; after a surrender of every thing on your part, into the hands of a few, their pleasure will be your only privileges.

6.1.38 I beg you will pardon me, Mr. Wilson, for this digression: it is not a pleasant one, and I wish the cause of it had never existed. We will return, if you please, to your speech. "When we reflect, you say, how various are the laws, commerce, habits, population, and extent, of the confederated states, this evidence of mutual concession and accommodation ought rather to command a generous applause, than to excite a jealousy and reproach. For my part, my admiration can only be equalled by my astonishment in beholding so perfect a system formed from such heterogeneous materials."[29] What a rhapsody is here; it certainly must have excited equal admiration and astonishment in your audience, and called forth those loud and unanimous testimonies of applause which Doctor Panegyric tells us, accompanied your speech.[30] Nil admirari, Mr. Wilson, is a wise lesson, and when you recover from your admiration and astonishment which are always in-

compatible with truth and reason; I shall ask you what union in the world is so similar in their laws, commerce, habits, population and extent? Is there such difference between Rhode-Island and Virginia as between Holland and Overyssel; between Massachusetts and Georgia, as between Berne and Switzs? Do not the several states harmonize in trial by jury of the vicinage; taxation by representation; habeas corpus; religious toleration; freedom of the press; separation of the legislative, executive and judicial functions. Are not these the great principles on which every constitution is founded? In these the laws and habits of the several states are uniform. But I suppose, because the citizens of New-York are not in the habit of being so ostentatious as those of Philadelphia, nor its merchants, of being such speculators in commerce as to fill the papers with bankruptcies; because in Carolina they are in the habit of eating rice, and in Maryland of eating homony; therefore the materials are heterogeneous, out of which this perfect system, his subject of amazement, was formed.[31]

6.1.39 What was this wonder working concession and accommodation? If they consisted in giving up, or hazarding any of the above fundamental principles of liberty, which I confess seems probable, because some furious spirits in the convention, and such there were, insisted upon it, such conduct may command your generous applause; but trust me, sir, when the people come to feel that their rights have been so basely betrayed by those they trusted, it will command a general execration. And here I cannot avoid remarking on what I have heard and for the truth of which I appeal to you. It is that a member of the late convention said, not very honorably distinguished for his moral or political virtue, admonished his associates that, unless they carried the constitution through before there was time for considering it, there would be no probability of its being adopted.[32] When I couple this profligate declaration, with the equally profligate measures taken by some persons to force it down in Philadelphia, and with the indecent speed with which others posted to Congress, and then to their several states, to hurry it forward—I confess I cannot help apprehending that such advice was not only given, but followed.

6.1.40 You would next induce us, Mr. Wilson, to believe, that the state sovereignties will not be annihilated, if the general one be established as the convention recommends. Your reason for this is as curious as it is conclusive. Because the state legislatures must nominate the electors of the President once in four years, and chuse a third of the Senate once in two years; therefore they will continue to be sovereign. Sovereignty then consists in electing the members of a sovereignty; to make laws—preside over the administration of justice—command the militia, or force of the state—these I suppose, do not constitute its sovereignty, for these are totally taken away, and yet you are clear the sovereignty remains. Did you think, Sir, that you was speaking to men or to children, when you hazarded such futile observations. Nor are they compensated by the very profound erudition you

display in defining the meaning of the word corporation. In common *parlance* we should call this egregious pedantry. Such is the anxiety manifested by the framers of the proposed constitution, for the utter extinction of the state sovereignties, that they were not content with taking from them every attribute of sovereignty, but would not leave them even the name.—Therefore, in the very commencement they prescribed this remarkable declaration—*We the People of the United States*. When the whole people of America shall be thus recognized by their own solemn act, as the people of the United States, I beseech you Sir, to tell us over whom the sovereignty, you say you leave to the several states, is to operate. Did the generous confidence of your fellow citizens, deserve this mockery of their understandings; or inebriated with so unusual a thing as popularity, did you think that every rhapsody you uttered, would be received as reason? That you may not expose yourself again on this subject, give me leave to recommend to you to read Mr. Locke, in whom you will find that sovereignty consists in three things—the legislative, executive, and negociating powers, all which your constitution takes absolutely away from the several states.[33] In Barbeyrac's Puffendorf, you will find these words, "La souveraintee entant qu'elle prescrit des regles generales pour la conduite de la vie civile, s'appelle pouvoir legislatif—entant qu'elle prononce sur les demeles des citoiens, conformement a ces regles, pouvoir judiciare—entant qu'elle arme les citoiens contre un ennemie etranger, ou qu'elle leur ordonne de mettre fin aux acts d'hostilites; pouvoir de faire la guerre et la paix; entant qu'elle se choisit des Ministres pour lui aider a prendre soin des affaires publiques; pouvoir d'etablir des magistrates.[" "]The sovereignty, inasmuch as it prescribes general rules for the conduct of civil life, is called the legislative power—in deciding controversies among its citizens, conformably to those laws it is called the judiciary power—in arming its citizens against a foreign enemy, or ordering them to cease hostilities; it has the power of war and peace—the appointment of officers to aid it in the case of the public, is the power of establishing magistrates."[34] Now, Sir, all these attributes of sovereignty, being vested exclusively in your new government, is it not a mockery of common sense to tell us, the state sovereignties are not annihilated? and yet you undertake to prove, that upon their existence depends the existence of the fœderal plan—and when this mighty undertaking is explained it is because they must meet once in two years to elect part of the federal sovereignty. O fie! O fie! Mr. Wilson! you had yet some character to lose, why would you hazard it in this manner?

6.1.41 On the subject of taxation, in which powers are to be given so largely by the new constitution, you lull our fears of abuse by venturing to predict "that the great revenue of the United States must and always will be raised by impost"[35]—and you elevate our hopes by holding out, "the reviving and supporting the national credit." If you have any other plan for this, than by raising money upon the people to pay the interest of the national debt, your

ingenuity will deserve our thanks. Supposing however, that raising money is necessary to payment of the interest, and such payment requisite to support the credit of the union; let us see how much will be necessary for that end, and how far the impost will supply what we want.

	Dollars.
The arrearages of French and Spanish interest amount now to	1,500,000
Interest and instalments of do. for 1788,	850,227
Support of government, and its departments, for 1788,	500,000
Arrears and anticipations of 1787,	300,000
Interest of domestic debt,	500,000
	4,650,227

The new Congress then, supposing it to get into operation towards October, 1788, will have to provide for this sum, and for the additional sum of 3,000,000 at least for the ensuing year; which together will make the sum of 7,650,227.

Now let us see how the impost will answer this: Congress have furnished us with their estimate of the produce of the whole imports of America at five per cent. and that is 800,000 dollars:[36] there will remain to provide for, by other taxes, 6,850,227. 6.1.42

We know too, that our imports diminish yearly, and from the nature of things must continue to diminish; and consequently that the above estimate of the produce of the impost, will in all probability, fall much short of the supposed sum. But even without this, it must appear, that you was either intentionally misleading your hearers, or very little acquainted with the subject when you ventured to predict, that the great revenue of the United States would always flow from the impost. The estimate above is from the publications of Congress, and I presume is right. But the sum stated, is necessary to be raised by the new government, in order to answer the expectations they have raised, is not all. The state debts, independent of what each owes to the United States, amount to about 30,000,000 dollars; the annual interest of this is 1,800,000.

It will be expected, that the new government will provide for this also; and such expectation is founded, not only on the promise you hold forth, of its reviving and supporting public credit among us, but also on this unavoidable principle of justice, that is the new government takes away the impost, and other substantial taxes, from the produce of which the several states paid the interest of their debt, or funded the paper with which they paid it. The new government must find ways and means of supplying that deficiency, or in other words of paying the interest in hard money, for in paper as now, it cannot, without a violation of the principles it boasts, attempt to 6.1.43

pay. The sum then which it must annually raise in specie, after the first year, cannot be less than 4,800,000: at present, there is not one half of this sum in specie raised in all the states; and yet the complaints of intolerable taxes has produced one rebellion, and will be mainly operative in the adoption of your constitution.—How you will get this sum is inconceivable, and yet get it you must, or lose all credit. With magnificent promises you have bought golden opinions of all sorts of people, and with gold you must answer them.

Cincinnatus.

VI

6 December 1787

To James Wilson, Esq.

Sir,

6.1.44 When I stated the monied difficulties, which the new government will have to encounter, my chief object was to prove to our fellow citizens, the delusion into which you have led them in your speech, when you ventured "to predict that the great revenue of the United States, must, and always will be, raised by impost." This is not the land, Sir, of *second sight;* and I have shewn that your prediction, is not founded on any knowledge of the subject. It is one of those numerous deceptions, that are practised upon the people to delude them into the toils that are spread for them by the proposed constitution.

6.1.45 To satisfy them more fully on the subject of the revenue, that is to be raised upon them, in order to give enormous fortunes to the jobbers in public securities, I shall lay before them a proposition to Congress, from Mr. Robert Morris, when superintendent of finance. It is dated, I think,* the 29th of June, 1782, and is in these words:—"The requisition of a five per cent. impost, made on the 3d of February, 1781. has not yet been complied with by the state of Rhode-Island, but as there is reason to believe, that the[ir] compliance is not far off, this revenue may be considered as already granted.—It will, however, be very inadequate to the purposes intended. If goods be imported, and prizes introduced to the amount of twelve millions annually, the five per cent. would be six hundred thousand, from which at least one sixth must be deducted, as well for the cost of collection as for the various defalcations which will necessarily happen, and which it is unnecessary to enumerate. It is not safe therefore, to estimate this revenue at

*I say, I think, because, by accident, the month is erased in the note I have, and I have not access to public papers which would enable me to supply the defect.

more than, half a million of dollars; for though it may produce more, yet probably it will not produce so much. It was in consequence of this, that on the 27th day of February last, I took the liberty to submit the propriety of asking the states for a land tax of one dollar for every hundred acres of land—a poll-tax of one dollar on all freemen, and all male slaves, between sixteen and sixty, excepting such as are in the federal army, or by wounds or otherwise rendered unfit for service; and an excise of one eigth of a dollar, on all distilled spiritous liquors. Each of these may be estimated at half a million; and should the product be equal to the estimation, the sum total of revenues for funding the public debts, would be equal to two millions."[37]

You will readily perceive, Mr. Wilson, that there is a vast difference between your prediction and your friends proposition. Give me leave to say, Sir, that it was not discreet, in you, to speak upon finance without instructions from this great financier. Since, independent of its delusive effect upon your audience, it may excite his jealousy, lest you should have a secret design of rivalling him in the expected office of superintendant under the new constitution. It is true, there is no real foundation for it; but then you know jealousy makes the food it feeds on. A quarrel between two such able and honest friends to the United States, would, I am persuaded, be felt as a public calamity. I beseech you then to be very tender upon this point in your next harrangue. And if four months study will not furnish you with sufficient descretion, we will indulge you with six. 6.1.46

It may be said, that let the government be what it may, the sums I have stated must be raised, and the same difficulties exist. This is not altogether true. For first, we are now in the way of paying the interest of the domestic debt, with paper, which under the new system is utterly reprobated. This makes a difference between the specie to be raised of 1,800,000 dollars per annum. If the new government raises this sum in specie on the people, it will certainly support public credit, but it will overwhelm the people. It will give immense fortunes to the speculators; but it will grind the poor to dust. Besides the present government is now redeeming the principal of the domestic debt by the sale of western lands. But let the full interest be paid in specie, and who will part with the principal for those lands. A principal, which having been generally purchased for two shillings and six pence on the pound, will yield to the holders two hundred and forty per cent. This paper system therefore, though in general an evil, is in this instance attended with the great benefit of enabling the public to cancel a debt upon easy terms, which has been swelled to its enormous size, by as enormous impositions. And the new government, by promising too much, will involve itself in a disreputable breach of faith, or in a difficulty of complying with it, insuperable. 6.1.47

The present government promises nothing.—The intended government, every thing.—From the present government little is expected:—From the intended one, much. Because it is conceived that to the latter much is 6.1.48

given—to the former, little. And yet the inability of the people to pay what is required in specie, remaining the same, the funds of the one will not much exceed those of the other. The public creditors are easy with the present government from a conviction of its inability—they will be urgent with the new one from an opinion, that as it promises, so it can and will perform every thing. Whether the change will be for our prosperity and honour, is yet to be tried. Perhaps it will be found, that the supposed want of power in Congress to levy taxes, is at present a veil happily thrown over the inability of the people; and that the large powers given to the new government, will to every eye, expose the nakedness of our land. Certain it is, that if the expectations which are grafted on the gift of these plenary powers, are not answered, our credit will be irretrievably ruined.

6.1.49 Once more, Mr. Wilson, be pleased to pardon me for digressing. We come now to your last argument, or rather observation, which is in these terms—That as establishing the new government will—"turn the stream of influence and emolument into a new channel, therefore every person who enjoys or expects to enjoy a place of profit under the present establishment, will object to the proposed innovation, not in truth, because it is injurious to the liberties of his country, but because it affects his schemes of wealth and consequence."[38]

6.1.50 This reflection, sir, is as ingenious as it is liberal. It reaches every man who will not worship the new idol. It is the shibboleth of your party. Every man who differs in opinion with you, upon the new constitution, if he is not actually a placeman under the present establishment, may be an expectant; and then, according to your liberal and gentlemanly conclusion, his opinion must be imputed to his pursuit of wealth and consequence.

6.1.51 But how could it escape you, that this was a two-edged argument, and might cut its inventor. Perhaps these very violent gentlemen for the new establishment, may be actuated by the same undue motives. Perhaps some of its framers, might have had its honours and emoluments in view. When you have let loose suspicion, Mr. Wilson, there is no knowing where it will end. Perhaps some may be audacious enough to suspect even—YOU. They may think, that the emoluments of an attorney generalship, or of a chief justice largely provided for, under a government gifted with almost chemic powers to extract gold from the people, might happily repair your shattered fortunes. Let us, Sir, suppose a man fallen from opulence into the most gloomy depths of monied distress, by an unsatiable love of wealth and as unwise a pursuit of it: would not such a man be a fit instrument in the hands of others to agitate the introduction of the new constitution. Such a man would have no objection to the golden speculations which such a constitution holds forth. Such a man, albeit unused to speak without a fee, and a large one too, would deign to harrangue gratis for such an object. His crest would be brightened, his eloquence animated by an anticipation of that

happy hour, when he might sail down this new pactolean channel, accompanied by his pathetic Doctor,[39] to sing a requiem to our expired liberties, and chant hallelujahs to his approach—to wealth and consequence. Such a man, Sir, in such a mood, would, as you do, regard the new constitution, in every point of view, with a candid and disinterested mind, and be bold to assert, "that it is the best form of government which has ever been offered to the world."[40]

Such a man as I have painted, you know, Mr. Wilson, is not a fiction. 6.1.52
What I have said was not to insult his distresses, but to admonish his discretion. He ought not to have touched ground, on which he, and his swelled superior,[41] who dances him forth to the people, is so very vulnerable. Upon my honor, Sir, I do not know two men in the United States more tender in this point. Permit me then to admonish them, through you, never again to insult the patience of the public with insinuations about the judgment of men on the proposed constitution, being affected by schemes of wealth and consequence.

There is one very material power given to the proposed Congress, on 6.1.53
which you have thought proper to be silent, and which as not coming within the scope of your speech I have reserved to this place. In the 4th section, it is said—"The times, places, and manner of holding election for senators and representatives shall be prescribed in each state by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of chusing senators."

In all our constitutions, the regulation of elections is fixed; not left to the 6.1.54
legislature, because it is a fundamental right, in which the essence of liberty resides.

It is in fact the root of all rights. Nothing can be plainer than that Congress, under the pretence of regulating, might in various ways annihilate the freedom of elections. If ever the aristocracy should meet with the pliant representative, it will be easy so to regulate the times, places, and manner of holding elections—as to secure the complaisence of future representatives.

This power over elections is another proof of a prediction for the senate, and a determination to have a complete controul over the people. It participates precisely of the spirit, which dictated the rendering the power of impeachment nugatory, by the manner in which it is to be executed.

Thus too, the right of election, under controul from time to time, in point 6.1.55
of manner, times, and places, is but a shadow in the people; while the substance will necessarily reside with those to whom the regulation of it is resigned. But the senate was too sacred to be subjected to this unhallowed touch. The aristocracy is elevated on high, while the democracy is trampled in the dust. If the people can indeed be deluded into such a surrender of their most sacred rights; it must arise from the precipitation with which they are called upon to decide. Still, however, I trust, that they will have discern-

ment to discover the parts which are incompatible with their rights and liberties, and spirit to insist upon those parts being amended.

Cincinnatus.

1. James Wilson, "Address to the Citizens of Philadelphia," 6 October 1787, McMaster and Stone 143–49.
2. Ibid. 143. The quotation is a rough approximation, accurate in substance.
3. Dr. Benjamin Rush. See Philadelphiensis VI, 3.9.40 n. 19.
4. See Democratic Federalist 3.5.2.
5. See ibid. 3.5.4 n. 3.
6. See *The Letters of Junius* (Woodfall edition), preface. On appeal of questions of fact and law see Democratic Federalist 3.5.6 n. 6.
7. The source of this quotation has not been found.
8. The source of this quotation has not been found.
9. McMaster and Stone 144. Wilson's argument in this connection is narrower than it may appear. Conceding that a specific provision stating that liberty of the press would be appropriate in the case of the federal city, he argues that this was not the business of the convention but would be dealt with by future compact, "to which the citizens immediately interested will, and ought to be, parties; and there is no reason to suspect, that so popular a privilege will in that case be neglected."
10. Some of the other restraints on the general government are harder to explain than this one. See Brutus II, 2.9.30 n. 22. Presumably the "migration or importation" clause is an exception to the commerce power. That raises some further interesting questions, which do not appear to have been fully discussed, at least in public, at the time of the founding. See, however, Deliberator (3.13.5), who argues that under its commerce power Congress may authorize the importation of slaves, regardless of state laws to the contrary. See Walter Berns, "The Constitution and the Migration of Slaves," *Yale Law Journal* LXXVIII (1968), 198–228.
11. Bushel's case, King's Bench, 1670, in J. P. Kenyon, *The Stuart Constitution: Documents and Commentary* (Cambridge 1966) 420. On trial by jury see references below in Plebeian 6.11.15 n. 13.
12. Statute of Merton 1236, 20 Hen. 3.
13. McMaster and Stone 149.
14. Ibid. 144–45.
15. Blackstone, *Commentaries on the Laws of England* III, 373–74.
16. McMaster and Stone 145. For other Federalist arguments to this effect, see Brutus VIII, 2.9.97 nn. 66–67.
17. McMaster and Stone 145.
18. Defending the power to raise and maintain standing armies, Wilson asks, "what would be our national situation were it otherwise? Every principle of policy must be subverted, and the government must declare war, before they are prepared to carry it on. Whatever may be the provocation, however important the object in view, and however necessary dispatch and secrecy may be, still the declaration must precede the preparation, and the enemy will be informed of your intention, not only before you are equipped for an attack, but even before you are fortified for a defence." McMaster and Stone 145–46.
19. Ibid. 146. For other claims that the Federalists have vast national ambitions, see above Henry 5.16.2 n. 11.
20. McMaster and Stone 146.
21. As Main points out, this is a rather uncommon argument. *The Antifederalists*, p. 137. It is, however, also made by the Albany Anti-Federal Committee (6.10.3) and Impartial Examiner (5.14.33–34). The Anti-Federalists do often (though not invariably) disagree with the apportionment of seats in the Senate equally among the states. See Federal Farmer III, 2.8.28 n. 22.
22. Montesquieu, *The Spirit of Laws* XI, ch. 6.
23. J. L. DeLolme, *The Constitution of England* II, ch. 10.

24. Ibid. II, ch. 3.
25. George Mason, Farrand II, 479 (31 August).
26. The reference is to the Pennsylvania constitution and party struggles; see above, vol. 3, intro.
27. "Declaration of Rights of the Inhabitants of the Commonwealth, State of Pennsylvania," 1776, Thorpe, *Federal and State Constitutions* V, 3083.
28. McMaster and Stone 145.
29. Ibid.
30. Presumably Dr. Rush.
31. This argument of the essential homogeneity of the United States is an unusual Anti-Federalist argument; cf. Federal Farmer III, 2.8.24, also the references in Cato III, 2.6.13 n. 8; 2.6.16 n. 11.
32. The reference is probably to Gouverneur Morris. See Farrand II, 478 (31 August), and Luther Martin's letter of 19 March 1788, Ford, *Essays* 363–70 and Farrand II, 478.
33. Cincinnatus refers rather loosely to Locke's argument in *Second Treatise on Government* XI, XII, XIII.
34. Puffendorf, *Le Droit de la Nature et des Gens* (Barbeyrac, transl.) II. bk. 7, ch. 4.
35. McMaster and Stone 148.
36. *Journals of the Continental Congress*, XXIV, 257–60, 277–83.
37. *Journals of the Continental Congress* XXII, 439. The correct date is 29 July 1782.
38. McMaster and Stone 149.
39. Benjamin Rush again.
40. McMaster and Stone 149. See Centinel XIII, 2.7.158–59.
41. Presumably Robert Morris.

Objections by A Son of Liberty

NEW YORK JOURNAL
8 November 1787

In this short list of thirteen objections to the Constitution, A Son of Liberty gives more attention than was common among the Anti-Federalists to problems of search and seizure and security from governmental agents. He includes strong language regarding the destruction of liberty of the press and trial by jury. He warns that the state militias will be used in distant parts of the country to put down insurrections and to enforce despotic rule. The country will be perpetually involved in European wars and drained of resources to satisfy the ambitious views of ambitious rulers. This piece was first published in the *New York Journal* and was reprinted in papers in Pennsylvania, Massachusetts, and Virginia.

Mr. Greenleaf,

6.2.1 Having observed in your paper of the 25th ult. that a writer under the signature of *A Slave*, has pointed out a number of advantages or blessings, which, he says, will result from an adoption of the new government, proposed by the Convention:[1]—I have taken the liberty to request, that you will give the following a place in your next paper, it being an enumeration of a *few* of the *curses* which will be entailed on the people of America, by this preposterous and new-fangled system, if they are ever so infatuated as to receive it.

6.2.2 1st. A *standing army*, that bane to freedom, and support of tyrants, and their pampered minions; by which almost all the nations of Europe and Asia, have been enslaved.

2d. An arbitrary capitation or poll tax, by which the poor, in general, will pay more than the rich, as they have, commonly, more children, than their wealthy dissipated neighbours.

3d. A suppression of trial by a jury of your peers, in all civil cases, and even in criminal cases, the loss of the trial in the vicinage, where the fact and the credibility of your witnesses are known, and where you can command their attendance without insupportable expence, or inconveniences.

4th. Men of all ranks and conditions, subject to have their houses searched by officers, acting under the sanction of *general warrants*, their private papers seized, and themselves dragged to prison, under various pretences, whenever the fear of their lordly masters shall suggest, that they are plotting mischief against their arbitrary conduct.

5th. Excise laws established, by which our bed chambers will be subjected to be searched by brutal tools of power, under pretence, that they contain contraband or smuggled merchandize, and the most delicate part of our families, liable to every species of rude or indecent treatment, without the least prospect, or shadow of redress, from those by whom they are commissioned.

6th. The Liberty of the Press (that grand palladium of our liberties) totally suppressed, with a view to prevent a communication of sentiment throughout the states. This restraint is designedly intended to give our new masters an opportunity to rivet our fetters the more effectually.*

7th. A swarm of greedy officers appointed, such as are not known at present in the United States, who will riot and fatten on the spoils of the people, and eat up their substance.

8th. The militia of New-Hampshire, or Massachusetts, dragged to Georgia or South-Carolina to assist in quelling an insurrection of Negroes in those states; and those of Georgia, to another distant quarter, to subdue their fellow citizens, who dare to rise against the despotism of government.

9th. The citizens of the state of New-Hampshire or Georgia, obliged to attend a trial (on an appeal) at the seat of government, which will, probably, be at the distance of at least five hundred miles from the residence of one of the parties, by which means, the expence of suits will become so enormous as to render justice unattainable but by the rich.

10th. The states perpetually involved in the wars of Europe, to gratify the *ambitious* views of their *ambitious* rulers, by which the country will be continually drained of its men and money.

11th. The citizens constantly subjected to the insults of *military* collectors, who will, by the magnetism of that most powerful of all attractives, the *bayonet*, extract from their pockets (without their consent) the exorbitant taxes imposed on them by their haughty lords and masters, for the purpose of keeping them under, and breaking their spirits, to prevent revolt.

12th. Monopolies in trade, granted to the favourites of government, by which the spirit of adventure will be destroyed, and the citizens subjected to the extortion of those companies who will have an exclusive right, to engross the different branches of commerce.

*The Abbe Mably, one of most sensible writers on government says, that the most despotic monarch in any nation whatever, if he had as many troops as the ability of the nation could support, would not long hold the reins of government, if the press was not shackled to prevent political disquisition.[2]

13th. An odious and detestable *Stamp act*, imposing duties on every instrument of writing, used in the courts of law and equity, by which the avenues to justice will, in a great measure, be barred, as it will enhance the expences on a suit, and deter men from pursuing the means requisite to obtain their right.—Stamp duties also, imposed on every *commercial* instrument of writing—on *literary productions*, and *particularly*, on *news papers*, which of course, will be a great discouragement to *trade;* an obstruction to *useful knowledge* in *arts, sciences, agriculture*, and *manufactures;* and a prevention of *political information* throughout the states. Add to the above enumeration, the severest and most intolerable of all curses—that of being enslaved by men of our own creation (as to power) and for whose aggrandisement, many of us have fought and bled. Men who will, perhaps, construe our most innocent remarks and animadversions on their conduct, *treason*, misprison of treason, or high crimes and misdemeanours, which may be punished with unusual severity; we shall then be in a most forlorn and hopeless situation indeed.

A Son of Liberty.

Orange-County, November 4, 1787

1. Despite the suspicious pseudonym, the brief essay of A Slave, printed in the *New York Journal* 25 October 1787, appears to be a straightforward Federalist statement, arguing that the Constitution will result in, for example, "unity and peace at home," "respect and honour from abroad," "policy, power and spirit, to encourage virtue, punish vice, assert our rights, take possession of our territories, prevent encroachments, and repel invasions." Thirteen advantages are listed, but they are not replied to, point by point, in the thirteen objections of A Son of Liberty.

2. *De jure naturae et gentium.*

Essay by Brutus, Jr.

NEW YORK JOURNAL
8 November 1787

In this competent but undistinguished essay ("One of the newspaper scribbles of the time," E. Wilder Spaulding called it),[1] the author takes up two arguments frequently met at the threshold of a consideration of the Constitution: that the Constitution must be good because framed by wise and patriotic men and that failure to adopt the system will result in anarchy and confusion. On the contrary, Brutus, Jr., contends, many members of the Convention were aristocrats, despisers of the common people, and adventurers. The country is now at peace, recovering from the ills of war, and enjoying again the fruits of industry and frugality. Modest improvements in the government are necessary, to provide for regulation of trade and the payment of the interest on the public debt; but there is no reason for precipitation.[2] If tumults arise, they will have resulted from Federalist attempts to press the Constitution to approval without due consideration.

1. *His Excellency George Clinton* (1938) 177.
2. Merrill Jensen's judgment is that Brutus, Jr., presents a "brilliant answer" to Federalist propaganda along these lines. *The Articles of Confederation* (1940) 5 n. 6.

Mr. Greenleaf,

I have read with a degree of attention several publications which have lately appeared in favour of the new Constitution; and as far as I am able to discern—the arguments (if they can be so termed) of most weight, which are urged in its favour may be reduced to the two following: 6.3.1

1st. That the men who formed it, were wise and experienced; that they were an illustrious band of patriots, and had the happiness of their country at heart; that they were four months deliberating on the subject, and therefore, it must be a perfect system.[1] 6.3.2

2d. That if the system be not received, this country will be without any government, and of consequence, will be reduced to a state of anarchy and confusion, and involved in bloodshed and carnage; and in the end, a gov-

ernment will be imposed upon us, not the result of reason and reflection, but of force and usurpation.[2]

6.3.3 As I do not find that either Cato or the Centinel, Brutus, or the Old Whig, or any other writer against this constitution, have undertaken a particular refutation of this new species of reasoning, I take the liberty of offering to the public, through the channel of your paper, the few following animadversions on the subject; and the rather, because I have discovered, that some of my fellow citizens have been imposed upon by it.

6.3.4 With respect to the first, it will be readily perceived, that it precludes all investigation of the merits of the proposed constitution, and leads to an adoption of the plan, without enquiring whether it be good or bad. For if we are to infer the perfection of this system from the characters and abilities of the men who formed it, we may as well determine to accept it without any enquiry as with.—A number of persons in this as well as the other states, have, upon this principle, determined to submit to it without even reading or knowing its contents.

6.3.5 But supposing the premisses from which this conclusion is drawn, to be just, it then becomes essential, in order to give validity to the argument, to enquire into the characters of those who composed this body, that we may determine whether we can be justified in placing such unbounded confidence in them.

6.3.6 It is an invidious task, to call in question the characters of individuals, especially of such as are placed in illustrious stations. But when we are required implicitly to submit our opinions to those of others, from a consideration that they are so wise and good as not to be liable to err, and that too in an affair which involves in it the happiness of ourselves and our posterity; every honest man will justify a decent investigation of characters in plain language.

6.3.7 It is readily admitted, that many individuals who composed this body, were men of the first talents and integrity in the union. It is at the same time, well known to every man, who is but moderately acquainted with the characters of the members, that many of them are possessed of high aristocratic ideas, and the most sovereign contempt of the common people; that not a few were strongly disposed in favour of monarchy; that there were some of no small talents and of great influence, of consummate cunning, and masters of intrigue, whom the war found poor, or in embarressed circumstances, and left with princely fortunes, acquired in public employment, who are at this day to account for many thousands of public money; that there were others who were young, ardent, and ambitious, who wished for a government corresponding with their feelings, while they were destitute of that experience which is the surest guide in political researches; that there were not a few who were gaping for posts of honour and emolument; these we find exulting in the idea of a change, which will divert places of honour, influence and emolument, into a different channel, where the confidence of

the people, will not be necessary to their acquirement. It is not to be wondered at, that an assembly thus composed should produce a system liable to well founded objections, and which will require very essential alterations. We are told by one of themselves [Mr. Wilson of Philadelphia] the plan was matter of accommodation;[3] and it is not unreasonable to suppose, that in this accommodation, principles might be introduced which would render the liberties of the people very insecure.

6.3.8 I confess I think it of no importance, what are the characters of the framers of this government, and therefore should not have called them in question, if they had not been so often urged in print, and in conversation, in its favour. It ought to rest on its own intrinsic merit. If it is good, it is capable of being vindicated; if it is bad, it ought not to be supported. It is degrading to a freeman, and humiliating to a rational one, to pin his faith on the sleeve of any man, or body of men, in an affair of such momentous importance.

6.3.9 In answer to the second argument, I deny that we are in immediate danger of anarchy and commotions. Nothing but the passions of wicked and ambitious men, will put us in the least danger on this head: those who are anxious to precipitate a measure, will always tell us that the present is the critical moment; now is the time, the crisis is arrived, and the present minute must be siezed. Tyrants have always made use of this plea; but nothing in our circumstances can justify it.[4]

6.3.10 The country is in profound peace, and we are not threatened by invasion from any quarter: the governments of the respective states are in the full exercise of their powers; and the lives, the liberty, and property of individuals are protected: all present exigencies are answered by them. It is true, the regulation of trade and a competent provision for the payment of the interest of the public debt is wanting; but no immediate commotion will arise from these; time may be taken for calm discussion and deliberate conclusions. Individuals are just recovering from the losses and embarrassments sustained by the late war: industry and frugality are taking their station, and banishing from the community, idleness and prodigality. Individuals are lessening their private debts, and several millions of the public debt is discharged by the sale of the western territory. There is no reason, therefore, why we should precipitately and rashly adopt a system, which is imperfect or insecure; we may securely deliberate and propose amendments and alterations. I know it is said we cannot change for the worse; but if we act the part of wise men, we shall take care that we change for the better: It will be labour lost, if after all our pains we are in no better circumstances than we were before.

6.3.11 If any tumults arise, they will be justly chargeable on those artful and ambitious men, who are determined to cram this government down the throats of the people, before they have time deliberately to examine it. All the measures of the leaders of this faction have tended to this point. In

Congress they attempted to obtain a resolution to approve the constitution, without going into an examination of it. In Pennsylvania, the chiefs of the party, who themselves were of the convention, that framed this system, within a few days after it dissolved, and before Congress had considered it, indecently brought forward a motion in their general assembly for recommending a convention; when a number of respectable men of that legislature, withdrew from the house, refusing to sanction with their presence, a measure so flagrantly improper, they procured a mob to carry a sufficient number of them by force to the house, to enable them to proceed on the business.[5]

6.3.12 In Boston, the printers have refused to print against this plan, and have been countenanced in it. In Connecticut, papers have been handed about for the people to sign, to support it, and the names of those who declined signing it, have been taken down in what was called, a black list, to intimidate them into a compliance, and this before the people had time to read and understand the meaning of the constitution.[6] Many of the members of the convention, who were charged with other public business, have abandoned their duty, and hastened to their states to precipitate an adoption of the measure. The most unwearied pains has been taken, to persuade the legislatures to recommend conventions to be elected to meet at early periods, before an opportunity could be had to examine the constitution proposed; every art has been used to exasperate the people against those, who made objections to the plan. They have been told that the opposition is chiefly made by state officers, who expect to lose their places by the change,[7] though the propagators of this falsehood, know, that very few of the state offices will be vacated by the new constitution, and are well apprized, that should it take place, it will give birth to a vast number of more lucrative and permanent appointments, which its principal advocates in every state are warmly in the pursuit of. Is it not extraordinary, that those men who are predicting, that a rejection of this constitution will lead to every evil, which anarchy and confusion can produce, should at the same moment embrace and pursue with unabating industry, every measure in their power, to rouse the passions, and thereby preclude calm and dispassionate enquiry. It would be wise in them, however, to reflect in season that should public commotion take place, they will not only be answerable for the consequences, and the blood that may be shed, but that on such an event, it is more than probable the people will discern the advocates for their liberties, from those who are aiming to enslave them, and that each will receive their just deserts.

Brutus, junior.

1. See above Centinel I, 2.7.5 n. 2; Federal Republican 3.6.5 n. 4.
2. See above Centinel IV, 2.7.91 n. 47.

3. Bracketed portion in the original. The reference is to Wilson's 6 October speech to the citizens of Philadelphia. McMaster and Stone 146.

4. For Federalists' claims about the critical moment, see Centinel IV, 2.7.91 n. 43; for Anti-Federalist views, see references in Federal Farmer I, 2.8.1 n. 4; Plebeian 6.11.5 n. 6.

5. See Pennsylvania House Minority 3.2.

6. See Charles Warren, Massachusetts Historical Society, *Proceedings* 64 (1932), 153–54.

7. See Martin 2.4.118 n. 44.

A Reply to Publius by An Observor

NEW YORK JOURNAL
19 November 1787

The union between Scotland and England was a frequent subject of discussion by both Federalists and Anti-Federalists. In this essay, An Observor rebuts the favorable picture of this union presented by Publius in *The Federalist* no. 5.

Mr. Greenleaf,

6.4.1 A writer, under the signature of PUBLIUS, or the FEDERALIST, No. V. in the Daily Advertiser, and in the New-York Packet,[1] with a view of proving the advantages which, he says, will be derived by the states if the new Constitution is adopted—has given extracts of a letter from Queen Anne to the Scotch parliament, on the subject of a union, between Scotland and England, and which I shall also here insert.

"An entire and perfect union will be the solid foundation of lasting peace: It will secure your religion, liberty and property, remove the animosities among yourselves, and the jealousies and differences betwixt our two kingdoms. It must increase your strength, riches and trade; and by this union the whole island, being joined in affection and free from all apprehensions of different interest, will be enabled to resist all its enemies." ["]We most earnestly recommend to you calmness and unanimity in this great and weighty affair, that the union may be brought to a happy conclusion, being the only effectual way to secure our present and future happiness; and disappoint the designs of our and your enemies, who will doubtless, on this occasion, use their utmost endeavours to prevent or delay this union."

6.4.2 I would beg leave to remark, that Publius has been very unfortunate in selecting these extracts as a case in point, to convince the people of America of the benefits they would derive from a union under such a government, as would be effected by the new system—It is a certainty, that when the union was the subject of debate in the Scottish legislature, some of their most

sensible and disinterested nobles, as well as commoners (who were not corrupted by English gold) violently opposed the union, and predicted, that the people of Scotland, would, in fact, derive no advantages from a consolidation of government with England, but, on the contrary, bear a great proportion of her debt, and furnish large bodies of men to assist in her wars with France, with whom, before the union, Scotland was at all times on terms of the most cordial amity. It was also predicted, that the representation in the parliament of Great-Britain, particularly in the house of commons, was too small;—forty-five members being very far from the proportion of Scotland, when its extent and numbers were duly considered; and that even they, being so few, might (or at least a majority of them might) at all times be immediately under the influence of the English ministry; and, of course, very little of their attention would be given to the true interests of their constituents, especially if they came in competition with the projects or views of the ministry. How far these predictions have been verified, I believe it will not require much trouble to prove; as it must be obvious to every one, the least acquainted with English history, since the union of the two nations, that the great body of people in Scotland, are in a much worse situation now, than they would be, were they a separate nation. This will be fully illustrated, by attending to the great emigrations which are made to America; for if the people could have but a common support at home, it is unreasonable to suppose, that such large numbers would quit their country, break from the tender ties of kindred and friendship, and trust themselves on a dangerous voyage across a vast ocean, to a country of which they can know but little, except by common report. I will only further remark, that it is not above two or three years since a member of the British parliament (I believe Mr. Dempster) gave a most pathetic description of the sufferings of the commonalty of Scotland, particularly on the sea coast, and endeavoured to call the attention of parliament to their distress, and afford them some relief, by encouraging their fisheries.[2] It deserves also to be remembered, that the people of Scotland, in the late war, between France and Great-Britain, petitioned to have arms and ammunition supplied them by their general government, for their defence, alledging that they were incapable of defending themselves, and their property, from an invasion, unless they were assisted by government. It is a truth that their petitions were disregarded, and reasons assigned, that it would be dangerous to intrust them with the means of defence, as they would then have it in their power to break the union. From this representation of the situation of Scotland, surely no one can draw any conclusion, that this country would derive happiness or security from a government which would, in reality, give the people but the mere name of being free; for if the representation, stipulated by the constitution, framed by the late Convention, be attentively and dispassionately considered, it must be obvious to every disinterested observer (besides many other weighty objections which will present themselves to his

view) that the number is not, by any means, adequate to the present inhabitants of this extensive continent, much less to those it will contain at a future period.

6.4.3 I observe that the writer above-mentioned, takes great pains to shew the disadvantages which would result from three or four distinct confederacies of these states.[3] I must confess that I have not seen, in any of the pieces published against the proposed constitution, any thing which gives the most distant idea that their writers are in favor of such governments; but it is clear these objections arise from a consolidation not affording security for the liberties of their country; and from hence it must evidently appear, that the design of Publius, in artfully holding up to public view such confederacies, can be with no other intention than willfully to deceive his fellow citizens.

6.4.4 I am confident it must be, and that it is, the sincere wish of every true friend to the United States, that there should be a confederated national government, but that it should be one which would have a controul over national and external matters only, and not interfere with the internal regulations and police of the different states in the union. Such a government, while it would give us respectability abroad, would not encroach upon, or subvert our liberties at home.

An Observor.

November 13, 1787.

1. *The Federalist* no. 5 appeared in the *Daily Advertiser* on 12 November 1787 and in the *New York Packet* on the 13th, having appeared in the *Independent Journal* on the 10th.

2. William Cobbett, *Parliamentary History of England from the Norman Conquest to 1800* (1806) XXIV (1783–85), 1015–16.

3 *The Federalist* nos. 1–14. See above, vol. 5, part 2 intro.; Centinel XI, 2.7.143 n. 75; Henry 5.16.11 n. 25.

Reply to Medium by A Citizen

NEW YORK JOURNAL
24 November 1787

This essay is a reply to a moderate Federalist piece over the name of Medium appearing in the *New York Journal* on 21 November. Medium had argued that the Constitution should be adopted but that the Federalists should join their opponents in recommending a bill of rights. A Citizen argues against what he says are the stale reasons given for adoption of the Constitution as it stands. His own contribution consists entirely in the contention that the business of the Philadelphia convention was to make commercial amendments and that consequently the representation was small and made up largely of commercial men, lawyers, and judges. The circumstances of the country do not demand hasty adoption; the people should consider fully, and a second convention should be called.

Mr. Greenleaf,

On reading your Daily Patriotic Register of the 21st inst. a political piece, 6.5.1
under the signature of MEDIUM, engaged my attention—From the name which the author has taken, I flattered myself, that his writings would have been influenced by candor and impartiality; his declarations in the first paragraph, of his having perused the publications for and against the new constitution, "without bias or prejudice," and that his researches had been solely directed to discover on which side the greatest reason prevailed—and, his indiscriminate censures of writers (without my stopping to enquire into the justice of them) confirmed my opinion in favor of his performance: you may judge then of my disappointment when I came to the two last paragraphs; these plainly discover that little dependence can be placed on appearances, and that the people ought to guard against the cunning and insidious arts, employed by designing men to mislead and betray them; for, it is evidently discernible, that the name which the writer assumes, and the candor that he effects, were purposely designed the better to carry on the

business of deception, and to effect the great end which a certain lordly party have in view—the adoption of the new constitution with all its defects; and, of course, risking the dearest rights of mankind to the precarious chance of being secured by future amendments.

6.5.2 In the first place, Medium asserts, that "It may be true, that the constitution is defective, but none have yet been able to prove that it is materially so;" he, however, admits, that it is not accompanied with a bill of rights, which he allows "to be the best security we can have against the encroachments of despotism"—Here it is granted, that the omission of a bill of rights is (whether proved so by other writers or not) "a material defect";—With what degree of consistency then can he urge "the embracing the constitution as it now stands"; certainly, he cannot be ignorant, that if it is agreed to without "that best security against the encroachments of despotism," that our liberties must, hereafter, entirely depend upon acts of an imperfect and unequal congressional legislature, which may be repealed at their pleasure, and, whenever it suits their arbitrary designs.

6.5.3 The stale and hackneyed reasons, that have been alledged for the adoption of the proposed system, in all its parts, are the only ones made use of by this writer, viz. The impracticability of getting a better, and the anarchy which will ensue its rejection. In order to shew the futility and absurdity of these positions, it may be proper to give the following concise account of the commencement and progress of this business.

6.5.4 A convention was appointed by the respective legislatures, at the recommendation of Congress, for the sole purpose of *revising* and *amending* the articles of confederation; Congress had no power to concur in any measures for alteration, but such as should be assented to by all the states; nor had the legislatures the least authority to confer powers for the purposes of violating or abridging the state constitution; the commission of the delegates to the late Fœderal Convention, consequently, could not, by any possible construction, invest them with powers which Congress and the legislatures themselves did not possess: the business of the *conventioneers* not to form a new constitution for the United States, but to revise and amend the old one, as far as was necessary and consistent with their delegation. It was well understood, that the account of provisions, for the general regulation of commerce, and for ensuring a compliance with requisitions made under the fœderal compact, were principal causes which induced the appointment of the convention. These being the main objects, the representations, from all the states, were small, principally taken from commercial cities, and composed chiefly of merchants, practitioners of the law, and judicial officers; of the two latter professions, nearly one half of the convention consisted.[1] This imperfect representation of the people, both as to numbers and descriptions, when assembled, shut their doors against their fellow citizens, and laid themselves under obligations of secrecy, and, by keeping from the world a knowledge of the important business which they had assumed upon them-

selves, they were precluded from all opportunities of receiving light or information, upon so interesting a subject, from the animadversions which their constituents would probably have made upon the different points under their deliberation. Under these unfavorable circumstances, this new constitution was formed, and it must therefore be considered as an unauthorized essay, which can only receive sanction from the assent of the people; it has already become the subject of general discussion, and, besides the omission of a bill of rights (which even Medium admits to be essential) many other radical defects have been pointed out; but, instead of attempting to amend them, it is insisted that it must, for the groundless and puerile reasons above-mentioned, be accepted in toto. What is there in the nature of our situation that imposes this disagreeable necessity upon us? Is it probable, that we shall ever be in a situation, in which we can with more temper and greater safety, deliberate upon this momentous concern than at present? From abroad, we have nothing to fear—the interesting affairs of the European powers will engage their attention beyond the atlantic—at home, we are in a state of perfect tranquility—for, although there are defects in the existing articles of confederation, yet the governments of the different states have energy sufficient to command obedience to their laws, and preserve domestic peace; America has not been subjected to as many tumults and disasters since the conclusion of the war, as countries, of an earlier foundation, have suffered in the same space of time. Some of the states have, already, with great calmness and temper, directed conventions of the people to assemble and take the proposed constitution into consideration—they ought, and it is unquestionably their duty to give every article a free and fair discussion; it would be inconsistent with, and derogatory to, every idea of the rights of freemen, to presume that they must approve of such parts as, in their opinions, are improper and dangerous, or, on the other hand, that they would reject what merited their approbation—it should also be their duty, to point out such amendments and alterations, as to them appear necessary and salutary—and they, or the legislatures, should appoint delegates to compose a new general convention; the members of which, being furnished with the remarks of the respective state conventions, will be enabled to form a system much less exceptionable, more perfect, and coincident with the wishes of the people; by this means the present animosities and divisions, which now prevail will, in all probability, be healed, and a government introduced that will engage the attachment, promote the felicity, and receive the support, of all ranks of people.

If the advocates, for the unqualified adoption of the new constitution, could be induced to divest themselves of prejudice, and reflect seriously and candidly, perhaps they would discover greater danger of anarchy and civil discord through their unjustifiable endeavors to establish a government (universally allowed to be defective) than by a concurrence in this practicable and rational mode of procedure. They ought deliberately to consider, 6.5.5

whether the proposed constitution will ensure to the people all those great advantages they are led to expect from the encomiums which its advocates so lavishly bestow upon it, in order to obtain its establishment; for, if the contrary (which is predicted by many) should happen, and the people, instead of having their happiness and interest promoted, find themselves deprived of their invaluable liberties, and their burdens increased by an expensive government, the inevitable consequences will be anarchy and discord, which may prove, when beyond the power of remedy, dangerous to the community, and *dreadfully fatal* to the authors of their deception.

A Citizen.

New-York, Nov. 22, 1787.

1. For a full account of the background, interests, and callings of the members of the Convention, see McDonald, *We the People*, ch. 3. See also Jackson T. Main's "Critical Review" of McDonald's study in *William and Mary Quarterly* January 1960.

Letters from A Countryman from Dutchess County

NEW YORK JOURNAL
November 1787–February 1788

The letters from A Countryman from Dutchess County appeared in the *New York Journal* and *Daily Patriotic Register* irregularly between November 1787 and February 1788. This is a distinct series that has, however, usually been confounded with the letters of A Countryman printed below and probably written by DeWitt Clinton.[1]

Contending that the majority of the Constitutional Convention were dupes of a few enemies of liberty, A Countryman from Dutchess County claims that they acted without authority and that the proposed Constitution deserves to be treated as a nullity. He devotes most of his first three letters to a strong denunciation of the slave trade provision and a comparison of its hostility to the principles of liberty with the former views of John Dickinson and Benjamin Franklin. Even if these men are as patriotic as is claimed, they have acted utterly without authority and should be indicted for disturbing the public tranquility, impeached for breach of trust, and charged with the disruption of the Union if that should occur.

Letter IV contains an attack on the undermining of state sovereignty implicit in the call for ratification conventions and an extensive consideration of the implications of the "supreme law of the land" clause, leading to the conclusion that laws and treaties will have equal authority with the Constitution. In a fifth letter the author lists amendments that might make the Constitution acceptable and concludes with a strong protest against the military power that the new Constitution would vest in the government and on which that government would depend. Finally, in letter VI, he takes up some writers for and against the Constitution. The greater part of the essay is devoted to some pointed and interesting criticisms of the Letters of The Federal Farmer.

1. See 6.7.intro. and n. 1.

Mr. Greenleaf,

Enclosed you have a copy of a letter I lately received from a gentleman in Dutchess county, and as it contains some very proper and important remarks on the Constitution proposed by the late Convention, I must request the favor of your publishing it in your useful paper. The writer has promised, occasionally, to continue his remarks; and as they come to hand, I shall, without farther introduction, send them to you for publication.

A Customer.

New-York, Nov. 20, 1787.

I
21 November 1787

Dear Sir,

6.6.1 As you have several Times intimated a Wish to know my Sentiments, relative to the conduct of the late Convention, as well as of the Constitution, which they have offered to the Consideration of the People, I shall freely, as often as convenient, communicate whatever occurs to me on the Subject, as most worthy of Observation, if not already publicly discussed. When the Latter is the Case, perhaps I may drop a Sentiment concerning the Propriety, or Impropriety, of the Discussion, etc. But all this, my Friend, will, in a great Measure, depend on your reciprocating; for I am too phlegmatic to write, unless answered.

6.6.2 In the first Place then, most unfeignedly do I wish, and that for the Sake of Humanity, that the Convention never had existed; and, for the Sake of our old illustrious Commander in chief, I wish, as they have departed from their Institution, that they had offered a Constitution more worthy of so great a Character. But, as he has acted entirely in a Ministerial Capacity, so I wish to consider him, whenever I am obliged to mention his venerable Name, or allude to it. Not that I think any Name, however great, can justify Injustice, or make Slavery more eligible than Freedom, and beg to be so understood.[1]

6.6.3 Yet, when I consider the original Confederation, and Constitutions of the States which compose the Union, as well as the Resolutions of several of the States, for calling a Convention to *amend* the Confederation, which it admits, but not *a new one*, I am greatly at a Loss to account for the surprizing Conduct of so many wise Men, as must have composed that honorable Body. In fact, I do not know, at present, whether it can be accounted for; unless it be by supposing a Predetermination of a Majority of the Members to reject their Instructions, and all authority under which they acted.

6.6.4 If this be the Case, the Transition to prostrating every Thing that stood in their Way, though ever so serviceable or sacred to others, was natural and easy.—However, I do not even wish to think so unfavorably of the Major-

ity; but rather, that several of them, were, by different Means, insidiously drawn into the Measures of the more artful and designing Members, who have long envied the great Body of the People, in the United States, the Liberties which they enjoy.—And, as a Proof of their being Enemies to the Rights of Mankind, permit me to refer you to the first Clause, of the 9th Section, of the first Article of the new Constitution, which is framed to deprive Millions of the human Species of their natural Rights, and, perhaps, as many more of their Lives in procuring others! That Clause, you will immediately perceive, has been purposely so contrived for reviving that wicked and inhuman Trade to Africa.—That Trade in Blood, and every Vice, of which the Avarice, Pride, Insolence and Cruelty, of Man is capable! A Trade, which, if ever permitted, will entail eternal Infamy on the United States, and all that they have ever said or done in Defence of Freedom.—Will it not be said, that the greatest Sticklers for Liberty, are its worst Enemies?—For these Gentlemen, no doubt, mean to treat the United States, if they adopt the new Constitution, as they have some of their Colleagues; that is, make Cloaks of them, to cover their Wickedness.[2]

6.6.5 At the Moment it is adopted by the States, in its present Form, that Moment the *external* Turpitude of it is transferred to the Adoptors; and the Framers of it will immediately say, it was called for by the People, of whom they were but the Servants, and, that the Adoption is a Proof of the Assertion.

6.6.6 Perhaps you may next enquire what can be done?—If you should, I will tell you, on Condition that you pardon the Anticipation, the Legislature may, and with the greatest Propriety, as its Delegate has exceeded his Powers, or rejected them, consider all that he has done as a Nullity.—Would not this be a useful Lesson for Usurpers?

Indeed, I cannot see the Consistency or Propriety of Congress's sending it, or even permitting it to be sent, to the Legislatures that compose the present Union, when it entirely annihilates the Confederation under which they act, and which admits not of any thing more than an Emendation, as is evident by the 13th article.

6.6.7 But, as I have often told you, such is the unfortunate Lot of Humanity, that there are a Thousand brilliant Characters, to one that is always consistent, and, of this, Dr. Franklin, and Mr. John Dickinson, are two recent Examples among the Many. The Doctor is at the Head of a humane Institution for promoting the Emancipation of Slaves, or abolishing Slavery;[3] yet lends his Assistance to frame a Constitution which evidently has a Tendency not only to enslave all those whom it ought to protect; but avowedly encourages the enslaving of those over whom it can have no Manner of Right, to exercise the least shadow of Authority.

6.6.8 Mr. Dickenson, a few Years before the Revolution, publicly impeached the Doctor's Conduct for offering to attempt a Change in the chartered Privileges of Pennsylvania,[4] and now joins him in destroying a far superior Constitution, yes, thirteen far superior Constitutions, and opening a Trade

which is a Disgrace to Humanity! Will not such Conduct leave these Gentlemen Monuments of much departed Fame? As I have several of their Publications by me, which, I imagine you never saw, I purpose in my Next, to let them speak for themselves, if you have no Objection.

I am, Dear Sir,
very respectfully, yours,
A Countryman.

November 10, 1787.

II
23 November 1787

(Continued from Wednesday's Paper)

6.6.9 In the Conclusion of my First, of the 19th[5] current, I promised that Mr. Dickenson, or the famous Author of the Farmer's Letters, and Doctor Franklin should speak for themselves; I now offer you as a Specimen of the Farmer's Rhetoric, the second Paragraph of his first Letter,[6] which appears thus—"From my Infancy I was taught to love Humanity and Liberty. Enquiry and Experience have since confirmed my Reverence for the Lessons then given me, by convincing me more fully of their Truth and Excellence. Benevolence towards Mankind excites Wishes for their Welfare, and such Wishes endear the Means of Fulfilling them. Those can be found in Liberty alone, and therefore her sacred Cause ought to be espoused by every Man, on every occasion, to the utmost of his Power. As a Charitable, but poor, Person does not withhold his Mite, because he can not relieve all the Distresses of the Miserable; so let not any honest Man suppress his Sentiments concerning Freedom, however small their Influence is likely to be. Perhaps he may touch some Wheel that will have a greater Effect than he expects." What gracious Sentiments, and how sweetly expressed!—But what are Sentiments, or the tenderest Expressions, when not accompanied by corresponding Actions? They certainly render the Author a greater Object of our Pity, if not of Contempt.—How is it possible to reconcile the first Clause of the 9th Section, in the first Article of the new Constitution, with such universal Benevolence to all Mankind?

6.6.10 Will this Gentleman say, that the Africans do not come within the Discription of "Mankind?" If he should, will he be believed?—Besides, he seems to have run counter to a generally received Maxim in educating the rational as well as the irrational Creation; as he acknowledges, that he was early instituted in Virtue, which, now, in advanced Life, he seems either to have forgotten or stiffled?

6.6.11 Had Cornwallis, Rawdon, Arnold, or any of the British, Marauding, Butchers, signed such a Clause, there would have been a Consistency; but,

for the benevolent Author of the Farmer's Letters, which every where seem to breathe the pure Spirit of Liberty and Humanity, to lend his once venerated Name, for promoting that which the Framers of the Clause were either ashamed or afraid, openly, to avow, exceeds Credulity itself, were it not for occular Demonstration.

Is this the Way by which we are to demonstrate our Gratitude to Providence, for his divine Interposition in our Favor, when oppressed by Great Britain?—Who could have even imagined, that Men lately professing the highest Sense of Justice and the Liberties of Mankind, could so soon and easily be brought to give a Sanction to the greatest Injustice and Violation of those very Liberties? Strange Inconsistency and painful Reflection!—And the more so, when it is considered, that not only Individuals in Europe, as well as in each of these states; but that several of the nations in Europe have, for some years before the Revolution, been endeavouring to put a Stop to a Trade, which was a Disgrace to the very Name of Christianity itself.—Nay, that Numbers among those whom we so lately considered as Enemies to Liberty, are now using every Means in their Power to abolish Slavery! Will not a contrary Conduct of the States tarnish the Lustre of the American Revolution, by violating the Law of Nations, and entailing endless Servitude on Millions of the human Race, and their unborn Posterity? Can any Person, who is not deeply interested in enslaving this Country, believe, that the Contrivers of such a diabolical Scheme had any Regard for the most sacred Rights of human Nature? 6.6.12

It really seems to have been, as Mr. Wilson acknowledged, a mere Matter of Accomodation between the Northern and Southern States;[7] that is, if you will permit us to import Africans as slaves, we will consent that you may export Americans, as Soldiers; for this the new Constitution clearly admits, by the 2d Clause of the 6th Article, which says, "that this Constitution and the Laws of the United States which shall be made in pursuance thereof, and all Treaties made, or which shall be made under the Authority of the United States, shall be the supreme Law of the Land, etc. any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." 6.6.13

May not Treaties be immediately entered into with some of the Nations of Europe for assisting them with Troops, which, if they do not enlist voluntarily, may, by this Clause, be detached and transported to the West or East-Indies, etc.? 6.6.14

I ask the Doctor's Pardon, I promised in my first, that he should be permitted to speak for himself in this; but Time will not now admit of it—He shall have the Preference of opening my next.

I am, with every Sentiment of Esteem,
Dear Sir,
Your most Obedient,
A Countryman.

November 17, 1787.

III

3 December 1787

(Continued from this Register of the 23d. ult.)

Dear Sir,

6.6.15 My second Letter was concluded by a Promise that Dr. Franklin should have the Preference in this. However, I do not know, whether, upon the Whole, I ought not to make the Doctor some Acknowledgement, as he does not appear, all Circumstances considered, quite so inconsistent as Mr. Dickenson, or the Author of the Farmer's Letters, who, before this violent Attack on the present Confederation, has not, to my Knowledge, ever been concerned in subverting the Rights or Liberties of the People.

6.6.16 For the Sake of America and Humanity, I wish the same could, with Truth, be said of his Colleague, the Doctor, who, as you will presently perceive by his own Words, as well as by Mr. Dickenson's, has long been endeavouring to reconcile this Country to a standing Army, and, I think, an episcopal Hierarchy also; but, the Latter you will be better able to judge of, when you hear him speak for himself, and I do not wish to misrepresent a single Syllable to the Prejudice of him, or any other Person. Perhaps it may not be amiss to acquaint you, that the Doctor's Speech, of which I am going to transcribe a Part, was not an extemporaneous one; but written in Philadelphia, April the 12th, 1764, as appears by the Date, by Way of Letter, to a Friend in the Country, and afterwards published under the Title of "Cool Thoughts on the present Situation of our public Affairs."[8]

6.6.17 He thus begins—"Sir, your Apology was unnecessary. It will be no Trouble, but a pleasure, if I can give you the Satisfaction you desire. I shall therefore immediately communicate to you my Motives for approving the Proposal of endeavouring to obtain a Royal Government in Exchange for this of the Proprietaries; with such Answers to the Objections you mention, as, in my Opinion, fully obviate them"—Then follows, to the 15th Page, a Number of Observations, etc. on the Conduct of the Proprietaries and their Government, etc. with neither of which, at this Time, have we any Concern.

6.6.18 But the 2d. Paragraph in the Page mentioned above, exhibits a Case more in Point, if I may be allowed the Phrase, and begins thus,—"It is farther objected, you tell me, that if we have a Royal Government, we must have with it a Bishop, and a Spiritual Court, and must pay Tythes to support an Episcopal Clergy. A Bishop for America has been long talked of in England, and probably from the apparent Necessity of the Thing, will sooner or later be appointed; because a Voyage to England for Ordination, is extreamly inconvenient and expensive to the young Clergy educated in America; and the Episcopal Churches and Clergy in these Colonies can not so conveniently be governed and regulated by a Bishop residing in England, as by one resided among those committed to his Care. But this Event will happen neither sooner nor later for our being, or not being, under a Royal Govern-

ment. And the spiritual Court, if the Bishop should hold one, can have no Authority only with his own People, etc.''[9]—The 2d Paragraph, in the 16th Page, I believe you will readily allow to be more to the Purpose, it being less equivocal; as the Doctor, in his usual Manner, avows his Sentiments, in the following Words—''That we shall have a standing Army to maintain, is another Bugbear raised to terrify us from endeavouring to obtain a King's Government. It is very possible that the Crown may think it necessary to keep Troops in America henceforward, to maintain its Conquests, and defend the Colonies; and that the Parliament may establish some Revenue arising out of the American Trade to be applied towards supporting those Troops. It is possible too, that we may, after a few Years Experience, be generally very well satisfied with the Measure, from the steady Protection it will afford us against foreign Enemies, and the Security of internal Peace among ourselves without the Expence or Trouble of a Militia. But assure yourself, my Friend, that whether we like it or not, our continuing under a Proprietary Government will not prevent it, nor our coming under a Royal Government promote and forward it, any more than they would prevent or procure Rain or Sunshine, etc. etc.''[10]—To the last Paragraph in the 20th Page, which, as a Part of it, is so exceedingly applicable to the Doctor's, and his Colleague's late Conduct, as well as our Feelings, I presume you will have no Objection to hearing him conlude, as follows—''On the Whole, I cannot but think, the more the Proposal is considered, of an humble Petition to the King, to take this Province under his immediate Protection and Government, the more unanimously we shall go into it. We are chiefly People of three Countries: British Spirits can no longer bear the Treatment they have received, nor will they put on Chains prepared for them by a fellow Subject. And the Irish and Germans have felt too severely the Oppressions of hard-hearted Landlords and arbitrary Princes, to wish to see, in the proprietaries of Pennsylvania, both united, etc.''[11]—Had he said,—''Nor will they put on Chains prepared for them by fellow Citizens,'' it might, perhaps, have been considered as prophetic of the present Era.—Of this intended Change of Government, in Pennsylvania, Mr. Dickenson, in a Publication, speaks as follows,—''Benjamin Franklin, Esq. was accordingly chosen Speaker, and in the Afternoon of the same Day, signed the Petition, as one of his first Acts; an Act which—but Posterity will best be able to give it a Name!''[12]—If Mr. Dickenson's Opinion, of the Doctor's Conduct, was then just, which I believe all honest, unprejudiced Men thought it was, must not the Language we now speak, become much more copious and expressive than it is, to enable Posterity to give a proper Name to their late joint Act, the new Constitution, as it is called?

I have been the more particular on these Gentlemen's Conduct, as I perceive that much Stress is laid, by some Writers, on their Patriotism etc. especially the Doctor's; and many at this time in your City, either from a State of Minority, or their former Residence, cannot be acquainted with all the Facts and Circumstances which I have produced. That Dr. Franklin 6.6.19

countenanced and encouraged the Stamp Act, I have had sufficient Proof from several of his most intimate Friends; from his Conduct in favoring unasked, as they said, several of those Friends Appointments for carrying that Act into Execution, and, lastly, from several Letters to some of those very Persons who were appointed: I saw a Letter *of the Doctor's own Writing,* in the Hands of his Attorney, in your City, wherein he was directed to acquaint the Printer of the New-York Journal, the late Mr. John Holt, *of most respected memory,* that, if he persisted in printing against the Ministry, he must not expect that his Papers would be permitted to circulate by the Post-riders; and this whilst the Doctor was in England, and the Execution of the Stamp Act was in Suspence. But Mr. Holt was neither to be cajoled nor intimidated; he wrote the Doctor, and told his Agent, that, if his Papers were refused the same Conveyance as the other Printers, he would appeal to the Public, and hire a Rider, who should carry his Papers, as well as Letters, to his Customers. This, and the Opposition to the Stamp Act, had the desired Effect, and absolute Refusal was not made; but, Mr. Holt's Papers were continually delayed, and not infrequently destroyed by the Doctor's Deputies.

6.6.20 But granting that the Doctor is really as great a Patriot as he has been represented, or, as ever existed, and that his Confederates were all as patriotic and wise as he, nay, supposing that they were all, *in their private Capacities of Divine Descent,* to what does it amount? As Members of the Convention, they were but Deputies of Deputies, not Representatives of the People. Whence then could they derive any Authority for offering a new and unheard of Constitution to the Inhabitants of the United States; when the Legislatures themselves, from whom the Convention derived its very existence, have not Power even to alter a single Sentence of the present Confederation; but only to confirm such Alterations as may be agreed to in a Congress of the United States? To save you the Trouble of looking for the Confederation, as it is now before me, I will transcribe the last Period of the 13th Article, which reads thus—"And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any Alteration at any Time hereafter be made in any of them; unless such Alterations be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State."—Can any thing be more plain and comprehensive?—With what Consistency or Propriety can the Legislature of this, or any other State, consent to calling a Convention to consider of such a manifest insult offered by their Deputies to the Sovereignties of the States, as well as a most attrocious Attempt to dissolve the Union, when they were deputed solely for the Purpose of improving it, or rather perhaps for devising Means to improve it? If a Convention should be called, of which I confess, I cannot see either the Necessity, or even a Propriety, ought it not to be for impeaching the insidious Contrivers of such deep laid Designs, as appear from the Conduct of some of the late Convention, and the proffered Constitution?

As a Grand-Juror, had the Convention sat in this State, I should have been for preferring a Bill against them, as Violators of the present Confederation, and Disturbers of the Public Tranquility. And, as it is, they appear to me, to be proper Objects of Impeachment in the respective States to which they belong; and that as well for a most unparalleled Breach of Trust and Usurpation, as for attempting to destroy the present Confederacy.—Should there, in Consequence of these Men's Conduct, be any Secession or Separation of the States, though I cannot believe that even a Majority will adopt it, as it is; must not they, the Contrivers, be considered as the Authors of all the Evil which may flow from a Dissolution of the Union? And yet, dreadful as the bare Apprehension of a Disunion may be, I do not really know, but it might be more eligible than the Adoption of what is offered us. For, though several very ingenious, sensible and patriotic Writers have undertaken to shew of what the different Parts of the new Constitution deprives us, not one, that I have seen, has attempted to shew in what it has fully and indefeasibly secured us, unless it be in building a Federal Town, with as many Seraglios as may be wanted, and supporting a standing army, to defend them against foreign Invasions, etc. Nor do I believe it in the Power of the Projectors and all their Adherents, to prove that we are sufficiently Secure in any one essential Right, either Civil or Religious, when such unlimited Powers are vested in a haughty Senate, and a hungry Monarchy, both of which may be continued as long as exorbitant Grants of Land, Contracts, Places, Pensions, and every Species of Bribery and Corruption, have an Influence. But more of this some other Time; I have not leisure, at present, to enlarge. I am, Dear Sir,

Very respectfully, your's, etc.
A Countryman.

IV

15 December 1787

(Continued from this Register of the 3d. inst.)

December 8th 1787.

Dear Sir,

When I closed my third letter, I wished to be more explicit on some things 6.6.21
which I had mentioned in that, as well as to make several observations on the new constitution, as it is called; but the conveyance waited and time would not admit of saying any further.

I will now resume the affair of calling a convention. When I said, that I 6.6.22
could not see the propriety, or necessity, of the legislatures calling a convention, it was merely on the principle of calling one in consequence of the

resolve or recommendation of the late convention, at Philadelphia: lest the people should infer, that the legislature, by recommending a state convention, considered the proceedings and resolve of the Philadelphia convention in some measure obligatory on them so to do. Which, as the latter rejected the authority of those by whom they were appointed (at least, that appears to me to have been the case with the delegate of this state, as well as with the delegates of several other states) and renounced all allegiance to the present United States, I cannot admit to be binding on the legislature, in any manner whatever, even had the late convention really offered a good constitution. But, as it is, I cannot help being of opinion, that the resolve or recommendation is an aggravation, if possible, of the crime and insult.—Should the legislature, when they meet, think that the calling of a convention will be the best means of restoring public tranquility, I shall acquiesce. But then, I wish them not to do it from a sense of any obligation which they are under to the act of their delegate, or that of the delegates of any other state, in the late convention; as the exorbitant act of that body, has, in my opinion, cancelled all obligation, on the part of this state, for considering their proceedings as binding. I should therefore be glad to see them very explicit on such a most *extraordinary* emergency; for surely such it must appear to all unprejudiced minds. It is to be hoped, that they will ascribe the effects to their true causes, which were an evident want of duty, and an inordinate desire for unlimited power, in some of the members who composed the convention; at the same time, pointing out to the people, in the plainest manner, the snare which is laid for them, and, that the adopting of it, will be their *last sovereign act*, unless it should be a violent resumption, by arms.

6.6.23 I imagine, that the faction were rather apprehensive of a reprimand, when they referred their plot to conventions of the people, "for their assent and ratification," in preference to the legislatures, by whom they had been appointed, and from whom they derived all the authority which they had to assemble for a very different purpose. Though, in their reference of it to conventions of the people; they have not been much more polite to those bodies, than they have to the legislatures, and that you must have observed; as it is not submitted to the former for their consideration, improvement, or rejection; but expressly "for their assent and ratification;" which seems to exclude all manner of choice! Was ever self-sufficiency more evident in man?

6.6.24 The legislatures are advised to call conventions of the people for *registering the revolt of their citizen and deputies, as the supreme law of the land!*—Could any thing be more humiliating to sovereign and independent states?—Would this junto have dared to offer such an indignity to any sovereign prince in Europe, had they been appointed by one?—I know that your answer must be in the negative. Why then thus presumptuously attempt to prostrate thirteen sovereignties?—But the answer is obvious, and therefore not requisite at this time.

If the legislature should not be pointedly clear on such an open attempt to dissolve the present confederacy, may we not, in a little time, expect a Shays, or, perhaps, a much more formidable insurgent in this state?

6.6.25 Have you considered the tendency of the 2d paragraph of the 6th article of the NEW EDICT?—It does not appear to me, that either the Centinel, Federal Farmer, or any other writer that I have seen, has sufficiently attended to that clause, and all the consequences which it may involve. I am sensible, that the Centinel calls it a "sweeping clause";[13] but, I imagine, not on account of what I am going to observe, or he would have been more explicit. These are the words:—"This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the *supreme* law of the land, etc." You well know that I am not fond of desputing about words, unless they have an evident tendency to deceive or lead to error, in which case, I think, they ought to be thoroughly canvassed, and well understood, especially in an affair of such vast importance as the present. The word 'supreme' is, I believe, generally received, in law and divinity, as an adjective of the superlative degree, and implies the highest in dignity or authority, etc. Now, if we analyze this clause, we shall see how it will appear.

6.6.26 The constitution is to be the *high-authority*—the laws made in pursuance of the constitution are to be the *highest authority*, and *all treaties made, or to be made* are to be the *highest authority;* and yet there is to be *but one highest authority!* However easy it may be for the contrivers of this, to reconcile it to their own views, I confess to you, that it appears to me something like creed-making.

6.6.27 If all the laws and treaties which may be made, in pursuance of this constitution (provided it be adopted) are to be of *as high authority*, as the constitution, I should be glad to know what security we can have for any one right, however sacred or essential, when there is no explicit proviso, that the laws and treaties which may be made, shall not be repugnant to the constitution?

It is true, that they are to be made in *pursuance* of the constitution; but, *pursuance* is a vague term, and, I presume, generally implies little more than "in consequence, etc."[14]—I have always understood, that the laws derived all their just authority from the constitution, or social compact, as it is sometimes called; and that the latter receives its whole authority, in free governments, from the common consent of the people, and recognizes or acknowledges all their essential rights and liberties, as well as ascertains the reciprocal duties or relations between the governed and their governors, or, perhaps, more properly, their principal public servants, who undertake to manage or conduct the affairs of the community agreeable to certain fixed stipulations, which are mentioned in the original compact or constitution, and not otherwise, but at the risk of being disobeyed, or opposed, as the case may require.

6.6.28 *If these ideas of a free government are just, ought there not to have been a positive distinction between the authority of the constitution and that of the laws, treatics, etc. The constitution, when once government is organized, will be mostly passive, but the laws, treaties, etc. of Congress, will be active and voluminous; whence it is easy to foresee what will become of the passive supremacy of it, when it happens to come in competition with two active supremacies, which are coeval and coequal with it, besides several others which will be added, you may rely: For there must be the supreme Lex Parliamentaria of a meagre, biennial representation of the people, and another of an encroaching lordly sexennial Senate, with the supreme prerogatives of a poor, greedy, quadrennial monarch, who must ever be ready to concur in any measures for fleecing the people, provided he is but allowed to participate of the spoil. And, to crown the whole, there must, of course, be a* most supreme standing army *for us to feed, cloathe and pay, if you will pardon the redundancy of the phrase.*

6.6.29 *Does it not appear to you, as if the framers of this clause had profited by the embarrassments which the British ministry frequently met with in their attempts to render acts of parliament, paramount to magna charta, or the great charter of the peoples essential rights, which is acknowleged, by the 43d. of Edward the 3d. not to be in the power of parliament to alter, change, or destroy; as all statutes made or to be made, against, or contrary to that constitution, or bill of rights, are, immediately, to be considered as null and void? I have many more observations to make on this political phenomenon, as well as its origination; but domestic affairs require my attention, and I must bid you adieu until another opportunity.*

I am, dear sir,
Very respectfully, Your's etc.
A Countryman.

To a Citizen.

V
22 January 1788

(Continued from this Register of the 15th ult.)

January 10, 1788.

Dear Sir,

6.6.30 Although an unavoidable impediment has prevented my corresponding with you, as often as I wished and intended, yet it has not, entirely, deprived me of all opportunity, of revolving the general convention and their pro-

ceedings in my mind. In doing which, I always endeavour to divest myself of every prepossession for, or against them, and their conduct, and, as impartially and candidly as I am capable, to view and consider the whole in every possible point of light, in which I can place it.—And, though it is readily granted, that the convention was composed of a number of very sensible men; yet, if we take the retrospect of the time, when it was first proposed, that there should be a general convention, and the design of it; and likewise reflect, that several of the gentlemen who composed the last convention, were also members of the first, as well as members of the different legislatures which deputed them, besides being delegates to Congress; by all which means they must have had frequent, and great opportunities of learning the sentiments of others with time to read and study the best authors on government, and make up their own minds; on the subject, previous to their last meeting. Shall we find, if we deduct a part of the constitution of this state, some part of the confederation, and the mode of election in Connecticut, etc. from what they have done, that all these combined circumstances, added to four months close application of great abilities and wisdom, which have been so often handied [handed? bandied?] about, have produced any thing adequate to what might reasonably have been expected from such united advantages?—Nay, have they produced any thing but what they ought not to have produced? And, to say no worse of it, have they not descended below the dignity of their characters? Have they not said,—"Done in convention, by the unanimous consent of the states present, etc." shortly after which, we see, "New-York," and "Alexander Hamilton," annexed to it, as though the state were fully represented by that one deputy, when it had sent three deputies?—And, either forgetting, or in hopes that others would forget, have they not afterwards said, "In convention, Monday September 17, 1787. Present, the states of New-Hampshire, Massachusetts, Connecticut," "Mr. Hamilton for New-York, etc.?" By what name ought this to be called? May not some of the wisdom of this world be truly called foolishness? I could very easily imagine, that a gentleman of far less understanding than "Alexander Hamilton," is said to be, would have had modesty enough to wait for further authority, before he set his name to an instrument of such immense importance to the state which entrusted him, and honored him with its interests and commands.

What was this but setting the state and his colleagues at open defiance, and, tacitly, telling the legislature and them, "I want none of your instructions, advice, nor assistance. I better know than you or they what ought to be done, and how to do it. Yes, I know what will suit you all, much better than any body else in the state. I know, that trial by jury, of the vicinage, is a foolish custom, besides frequently embarrassing the judges, it often disappoints the lawyers, and therefore, as I may never have it in my power again, I will now contribute all I can to the abolition of it." If it be 6.6.31

true, that actions may speak plainer than words, which, I believe, is a maxim pretty well established, must not the foregoing, or something like it, have been the language or ideas held by that gentleman?

6.6.32 Can the conduct of a man be spoken too freely of, who, unauthorised, has attempted to transfer all power from the many, to the few? Has this state, or, have the United States, expended so much blood and treasure for the sake of exalting one, or the few, and depressing the many? If they have, or, if that was their view, then have they been guilty of an unpardonable offense against God and their country. But it cannot be—that never could have been *even in contemplation,* with the *honest patriots* of seventy-six.

6.6.33 The conduct of George Grenville, the Earl of Hillsborough, Lord Mansfield, the Earl of Bute, Lord North, the King and Parliament of Great Britain, as well as that of their adherents, the stamp-masters, etc. in America, has always been canvassed and treated with the utmost freedom, by the friends of this country. Whence then all this reserve and tenderness for a *junto* of our fellow citizens, who have cast off their allegiance to the United States, and endeavoured to rob us of our best inheritance?

Will it not be said, by the nations of Europe and posterity, that they acted with more spirit and enterprise in robbing us of it, than we have in defending it, though we pretended to know the value of it? Others may do as they please, but, for myself, I am determined to pursue them, with my pen, as long as I can wield it, unless they should make a solemn, public recantation.

6.6.34 Should the new constitution be sufficiently corrected *by a substantial* bill of rights, an equitable representation, chosen annually, or not eligible under two years, the senate chosen triennally, and not eligible in less than three years afterwards, which, apart from it, becoming a more general object to men of learning and genius, might also be a means of preventing monopolies by a few men or families—separating the legislative, judicial and executive departments entirely, and confining the national government to its proper objects; but, by no means admitting a standing army in time of peace, nor a select militia, which last, is a scheme that a certain head has, for some time, been teeming with,[15] and is nothing else but an artful introduction to the other—Nor ought the militia, or any part of it, I think, to be marched out of the state, without the consent of the legislature, and then, not for more than a certain reasonable time, etc.—leaving the states sovereign and independent with respect to their internal police, and relinquishing every idea of drenching the bowels of Africa in gore, for the sake of enslaving its free-born innocent inhabitants, I imagine we might become a happy and respectable people. And, the conduct of the late general convention, by the violent effort which it has made to prostrate our invaluable liberties at the feet of power, fully evinces the absolute necessity of the most express stipulations, for all our essential rights.

6.6.35 But, should the constitution be adopted in its present form, without any amendment, I candidly think, that we should have been much happier, at

least for a number of years, in our old connexion with Great-Britain, than with such an absurd heterogeneal kind of government as the convention have proposed for our implicit adoption. Indeed, at present, there are so many dissentients, and others daily becoming so, in all the states, and with arms in their hands, that I cannot see how it could well be organized, without a force superior to every opposition, and that must, of course, absorb all the resources of ways and means immediately, and would defeat many of its own purposes and promises.

Besides, where is the difference between the people's cutting one another's throats, for their own diversion, or cutting them for the pleasure and aggrandizement of one or a few?—If any, I should prefer the former; that is, for my own diversion, etc. I have no idea of being gladiator to any man or body of men whatever; nor marching 500 or 1000 miles to quell an insurrection of such emigrants as are proposed by the new constitution, to be introduced for one and twenty years. No, nor of butchering the natives, that a few great speculators and landholders may engross all the best soil for a song, and revive the old feudal system, which I know to be the wish of some of the advocates for the new government. 6.6.36

Is it not fortunate for this state, that the executive is not one of the aristocracy, or we might have been precipitated into measures, perhaps, which would have afforded us ample time for repentance? 6.6.37

If, at any time, I should trespass on your patience, I beg you will please to place it to the account of the general convention, and believe me to be, dear Sir,

Your most obedient and
very humble servant,
A Countryman.

VI
14 February 1788

(Continued from this Register of the 22d ult.)

Dear Sir,

The pamphlets which you sent me, I have read, and, agreeably to what I proposed, in my first letter, will offer you, by way of return, for your politeness and friendship, some of the observations which occured to me, when I read them. Wherever you think me wrong, I beg your correction, when business permits; as I have nothing in view but the truth, and that I ever wish to avow, let who will be opposed to it. 6.6.38

Though I can not subscribe to the whole of the Fœderal Farmer; yet, I 6.6.39

think he has great merit, and well deserves the thanks of his country. But, if I mistake not, he seems at the latter end of the 3d page and beginning of the 4th, to lay rather too much stress on Mr. Pope's maxim, which is, that, "that which is best administered, is best."[16] With the greatest deference for the Fœderal Farmer's good sense, I beg leave to ask, whether this jingling maxim will not militate as much for the worst form of government, as for the best? From the candour which every where appears in his letters, I think, that I may venture to presume on his answering this question, if answered at all, in the affirmative. However, should I, in this, be wrong, I will as readily acknowledge the error, as ask the question. And, if so, what matter whether the form of government be good or bad, if it be but well administered? Besides, if Mr. Pope's mode of reasoning be just, why find fault with the constitution proposed, before it is put to the test; for who can tell, previous to its being administered, but it may, according to the poet's logic, be the best? Hence, does it not clearly appear how dangerous it is, to adopt the opinion or sentiments of any man, or number of men, however sanctioned by time, or the reputed wisdom, etc. of the author or authors, without first thoroughly canvassing the principles, and considering the consequences?

6.6.40 Perhaps, to a theocracy or divine government; that is, a government instituted and administered by the immediate interposition of the almighty, the poet's maxim may, with more consistency, be applied. In which, whatever is of divine institution, or administration, is certainly best.

But, I believe it is not pretended by any body, unless it be by the mad doctor, in Philadelphia, that the proffered constitution is of divine descent;[17] or, if it be, it is rather too nearly related to the divine right of kings, to be worshipped by true republicans, who enjoy the proper use of their reason. Why then adopt that which may as readily lead to error, as to truth?

6.6.41 As the letter writer appears to be a gentleman of true philanthropy, as well as of a clear and comprehensive understanding, I am bound to believe, that it is something, which, from an early adoption, or much use, has become very familiar to him, and, that he did not, at the time, attend to all its consequences. Neither is this any thing uncommon, or peculiar to him, as it undoubtedly has gone through the hands of thousands, before his; and, I imagine, almost every person may, at times, discover something or other of the kind, the absurdity of which, either from much use, or an early adoption, as mentioned above, has become so familiar or sanctioned by custom and time, as not to excite attention, and that too often in spiritual as well as temporal concerns.

6.6.42 At the bottom of the 15th page and top of the 16th, are these words, "I wish the system adopted with a few alterations; but those, in my mind, are essential ones; if adopted without, every good citizen will acquiesce, etc."[18] On which, I wish the gentleman had either been more explicit, or silent; as, in the first case, his meaning would have appeared to more advantage, and, in the other, there would have been no necessity for any observation. For,

when he says, "if adopted without, every good citizen will acquiesce," may it not imply, that, "every good citizen," ought, in duty, or of choice to "acquiesce," or that "every good citizen["] must of, or from, necessity "acquiesce?"

However, I imagine, that, from the epithet—"good citizen," the former construction may fairly be put on the phrase; that is, that it will, of course, be the duty or choice of *every good citizen to acquiesce*, even if the constitution should be adopted *without any alteration*. 6.6.43

Now, if this be truly the gentleman's meaning, and I can not, as I said above, at present, fairly put any other on it—I must deny his position. Nay, does not he, himself, tacitly deny it, when he says, that the alterations which he wished made, "are essential ones?" For, if *they are really essential,* according to the true sense of the word, will it not be rather difficult to prove, that it is the duty of a good citizen to acquiesce, in the manner represented, in what is essentially wrong?

Should it be said, that no more is meant by the word "acquiesce," than "a peaceable submission," I then say, that there was no necessity for mentioning *the quality of the citizen;* it being as much the duty of *a bad citizen*, as a good one, *to acquiesce*, perhaps, more requisite to be inculcated to the bad, than the good. And, should the constitution be adopted *without being essentially amended*, I hold it to be the *indispensible duty of every citizen*, good and bad, *not to acquiesce in the devises and institutions of men, which are directly opposite, or repugnant, to the word of god;* but, *by all and every just and prudent means, continually endeavour to procure a reformation or amendment of every thing which is essentially wrong*. 6.6.44

In page the 18th, paragraph the 2d, it is said, "The senate is entirely on the federal plan,"[19] which to me appears somewhat singular, when each senator is to have one vote. Either I do not comprehend his meaning, or there is a mistake, which ought to be corrected, for, by the present confederation, which is a union of the states, not a consolidation, *all the delegates*, from a state, have but one vote, and in the state senate, which is on the plan of consolidation, *each* senator has a vote. In page 38, there is an expression, which does not seem to be altogether consistent with the general tenor of the whole, but, perhaps not worth your notice at this time.[20] 6.6.45

I ask your pardon for being so tedious on such a trifling affair, seemingly; yet viewed in all their consequences, they appear to me, to be of some import rightly to understand. 6.6.46

The fabulous story of Actaeon and his hounds, is too often verified in disputes of this sort. If I do not mistake, it frequently so happened, just before the revolution, as well as in the course of the war; and, I think, that I remember seeing several such complaints in the public prints, when you returned to the city, especially of Phocion,[21] who then pretended to be as zealous an advocate for the constitution of the state, as Publius is now for the new constitution, of which, in No. 38, he gives but a vague account of

what is alluded to in the preceding paragraph, as well as the Federal Farmer.[22]

6.6.47 Not that I suppose the Federal Farmer to have been intentionally wrong. I do not, I assure you; and I beg, that he will not suspect me of it, let him be who he will, for who he is I know not. There are thousands of words and phrases made use of, and that by the most sensible men and best writers, which will not, in all constructions, bear a close examination; and, if that be the case with such characters as I have mentioned, there can be no doubt but you and he, should it be read by him, may discover such in these very observations; but be that as it may, I expect you will readily agree with me that, it is absolutely requisite to weigh every sentiment of friend as well as foe, before we approve, in such momentous concerns, as these times afford.—

6.6.48 As remarkable as the Federal Farmer is for candour and fair reasoning, just so remarkable is the pamphlet, said to be written by P——h W——r, of Philadelphia, for a farrago of falshood and a want of reasoning.[23] But I know the man and his creed; I have several of his essays, etc. etc. He is a creature of M——'s[24] and a child of the bank, if I may be allowed the phrase. And, had it not been for the pernicious influence of that bank, persuaded I am, that the people of Pennsylvania would not have been precipitated, in the manner they have, into the measures lately adopted by them.

6.6.49 Is it not curious enough, that our common friend —— ——, should accuse any man of not being a fair reasoner, when the very constitution itself, has not been effected by reason, but in direct opposition to it; and the adoption of it, in Pennsylvania, was carried in the same manner, only with more violence—the other more cunning. I am not entirely destitute of hopes, but that state may yet have another convention on the same subject. It cannot surely be possible, that the great body of the people, when they become fully informed of the *perfidious* advantage which has been taken of their confidence and credulity, by a few designing men, will patiently suffer themselves to be insulted by an aristocratical junto, and their adherents. No, I think, that they will spurn at the constitution, and the contrivers of it, in that state. And to my no small satisfaction, I observe, that the "Centinel" is perfectly competent, and willing to give them every information that their circumstances may require.

6.6.50 The Federalist, as he terms himself, or Publius, puts me in mind of some of the gentlemen of the long robe, when hard pushed, in a bad cause, with a rich client. They frequently say a great deal, which does not apply; but yet, if it will not convince the judge nor jury, may, perhaps, help to make them forget some part of the evidence—embarrass their opponent, and make the audience stare, besides encreasing the practice.

6.6.51 The Daily Advertiser, of January 17th, contains an extract, which is said to be part of "A letter from the late illustrious president of the general convention, to his friend in Fredricksburgh, Virginia,"[25] but which, I do not

believe to be his inditing, and for the following reasons:—That, neither the style nor composition, appears to be genuine; besides, several of the expressions are too positive and unguarded for any man of common prudence, and much more so, for a person who has always been considered as eminent for that very qualification.

Had such a thing made its appearance in the course of the war, I believe, that the medium of its origination might have been much more rationally accounted for, than it now appears to be.

6.6.52 Some time since, I also observed a paragraph in one of the papers, but which, at present, I really cannot tell, intimating, that the president of the late general convention, had consented to serve as a member of the state convention, if chosen for one of the counties in Virginia. This, I do not credit; for, though Mr. Wilson and some others, consented to become the encomiasts and worshipers *of their own image*, can there ever be a possibility, that HE, who has given so many unequivocal proofs of his native diffidence and modesty, should now assume quite a contrary style and conduct. I will not believe it—it can never be. Indeed, I sincerely wish, that he had refused to quit his peaceful shade. Nor do I believe that he would again have taken on him a public character, had not a very influential combination been formed, in and by which, every engine has been set to work, and that for the sake of accomplishing the *grand desideratum* of Mr. Adams's nobility, the well-born of America, or the United States.

6.6.53 But, to return to the extract, in which there are two periods, in the first paragraph, that prove too much (if they prove any thing) and, of course, amount to nothing, unless it be the writer's design. They are these:—"*And clear I am*, if another federal convention is attempted, that the sentiments of the members will be more discordant, or less accommodating than the last. In fine, they will agree upon no general plan."[26]

6.6.54 Now, if it be *impossible* for all the people of the United States, to form another *single* convention which shall agree upon *any one kind of government* (and is not this the obvious import or meaning of the assertion) I should be glad to learn, how the ingenious contriver of this curious extract expected, that *thirteen*, or even *nine different* conventions should ever agree to adopt the constitution, unless he intended to apply his "ultima ratio" to them?

Of late, I have observed several of these spurious extracts, paragraphs, etc. in the papers; but, as they were either anonymous, or the characters not of much consequence, I thought them unworthy of notice.—In this, I am impelled by duty.

I am, dear sir,
Your most obedient,
And very humble servant,
A Countryman.

1. For Federalist and Anti-Federalist views of the framers, see Centinel I, 2.7.5 n. 2, Federal Republican 3.6.5 n. 4.

2. For other discussions of the slave trade, see above Martin 2.4.65 n. 24.

3. Franklin was president of the Pennsylvania Society Promoting the Abolition of Slavery, and the Relief of Free Negros Unlawfully Held in Bondage.

4. "A Protest against the Appointment of Benjamin Franklin as Agent for the Colony of Pennsylvania," 26 October 1764, *The Writings of John Dickinson,* ed. Paul Leicester Ford, I (*Memoirs of the Historical Society of Pennsylvania* XIV, 1895), 147. See Dickinson's "Speech on a Petition for a Change of Government of the Colony of Pennsylvania," 24 May 1764, ibid. 1.

5. This is evidently a misprint for "10th," the date of the first letter.

6. The reference is of course to Dickinson's well-known *Letters from a Farmer in Pennsylvania* (1767).

7. Wilson does not in fact appear to have made such an acknowledgement, unless it can be inferred from his declaration before the Pennsylvania ratifying convention that the "migration and importation" provision "was all that could be obtained. I am sorry it was no more. . . ." McMaster and Stone 312. Wilson does use the term "accommodation" in describing the composition of the Senate in his speech of 6 October (ibid. 146); and A Countryman may have confounded this with the letters of An American Citizen (Tench Coxe), which were printed in pamphlet form together with Wilson's speech and which did acknowledge a compromise regarding the slave trade. See Ford, *Pamphlets* 133, 146.

8. *The Papers of Benjamin Franklin,* ed. Leonard Labaree (New Haven 1959–) XI, 153–73.

9. Ibid. 168.

10. Ibid. 169–70.

11. Ibid. 172–73.

12. The quotation is from the preface to Dickinson's "Speech on a Petition for a Change of Government of the Colony of Pennsylvania," 24 May 1764, which was written not by Dickinson himself but by the Reverend William Smith. *The Writings of John Dickinson* I 14.

13. Centinel II, 2.7.37.

14. Cf. W. W. Crosskey, *Politics and the Constitution* 990 ff.

15. The "certain head" has not been identified.

16. See above Federal Farmer I, 2.8.1 n. 3

17. Presumably Benjamin Rush. See Plebeian 6.11.27 n. 21.

18. See Federal Farmer III, 2.8.24.

19. See ibid. 2.8.28. For Anti-Federalist views of the Senate see Brutus III, 2.9.40 n. 26; Federal Farmer III, 2.8.28 n. 22; Cincinnatus IV, 6.1.27 n. 21.

20. The reference is probably to The Federal Farmer's observation that if the state conventions adopt the system, "I shall be perfectly satisfied. . ." On the same page of the original pamphlet, however, The Federal Farmer admits that "improper measures are taken against the adoption of the system as well as for it" (V, 2.8.62–63).

21. The letters of Phocion were published as pamphlets in 1784; written by Alexander Hamilton, they criticized the unconstitutional and unjust treatment of Loyalists by the New York legislature. *The Papers of Alexander Hamilton,* ed. Harold C. Syrett (New York 1962) III, 483–97, 530–58.

22. The reference is probably to Publius' contention that the Senate is based on the federal principle in *The Federalist* no. 39, 255. (This essay was numbered 38 in the original newspaper series.)

23. The reference is probably Pelatiah Webster's Remarks on the Address of Sixteen Members of the Assembly of Pennsylvania . . . , (McMaster and Stone 89 ff.) or to his *The Weakness of Brutus Exposed* (Ford, *Pamphlets* 117 ff.).

24. Presumably the reference is to Robert Morris.

25. This is Washington's letter to George Carter. Washington, *Writings* XXIX, 336–40. See American 4.20.2 n. 2.

26. Ibid. 340.

Letters from A Countryman

NEW YORK JOURNAL
December 1787–January 1788

A Countryman canvasses many of the usual objections to the Constitution as they might have been made by a simple, shrewd farmer who sees in the Constitution an intention to "keep down the common people." He deals in his first letter with the unrepublican structure and the absence of guarantee of a jury trial, and he concludes with a rather good parable illustrating the motives and tendencies involved in the new Constitution. He goes on (letter II) to display a bucolic perplexity over the confounding of the names "federalist and antifederalist," resolving to have his neighbor go through the papers with pen and ink and reverse the designations. In the sequel are discussions of the ambiguity and injustice of Art. I, sec. 9, clause 1 (6.7.5–6); the taxing power (6.7.7); the prohibitions on Congress that seem to imply powers not expressly granted (6.7.8); the desirability of mending the old rather than rushing to new, fashionable forms of government (6.7.8); the general welfare clause (6.7.13); the prohibition of ex post facto laws, which are sometimes necessary; and the absence of any protection of the rights of conscience, trial by jury and liberty of the press (6.7.13). In the course of his discussion the author subjects James Wilson and Publius to sharp examination (6.7.12), observing that the latter "seems to me as if he was going to write a history, so I have concluded to wait and buy one of his books when they come out."

The letters of A Countryman are usually attributed to DeWitt Clinton, but a difficulty arises from the fact that historians have failed to distinguish two series of letters that appeared in the same newspaper, at about the same time, and under the same pseudonym.[1] One series, which follows here, appeared in the *New York Journal* in December 1787 and January 1788. Another series, printed above (6.6), also signed by "A Countryman" but headed, "From a Gentleman in Dutchess County," and clearly a distinct series, appeared in installments between November 1787 and February 1788.[2] It is of course possible that both were written by the same man, although that seems implausible on its face.

Having established that there are two series of A Countryman letters, then, and assuming that DeWitt Clinton wrote only one of them, the question is, which one? The only evidence cited by historians (and the present editor has found no other) is a letter to DeWitt Clinton from his younger brother, George, written on 22 December 1787 and containing the following remark: "Your Countrymans Letters are very good and I think better adapted to the understanding of the Common People than any piece in the newspapers. They seem to be wrote in imitation of Col. D—n——."[3] The latter reference seems to be to James Dickinson's *Letters from a Farmer in Pennsylvania*, but that is not much help. Both series are in "imitation" of that kind of approach. Dickinson's letters are not in fact very rustic but contain a great deal of historical and literary quotation and commentary, and in that respect are more like A Countryman from Dutchess County. However, George's first observation seems to apply more to the series of letters that follows (6.7), which take the form of a simple farmer telling about his and his neighbor's thoughts on the Constitution and which *are* rather effective in that way. The more literary and denunciatory letters might still be regarded as appealing fairly broadly, but they are much less distinct from the usual run of Anti-Federalist pieces. Moreover, if the series young Clinton referred to is A Countryman from Dutchess County, he is praising his brother for imitating Dickinson in essays that vigorously criticize Dickinson's support of the new Constitution—an implausible indelicacy.[4] Assuming that the two series were by different hands, and as George's comment is the only evidence of authorship, a small margin of probability favors DeWitt Clinton as the author of the series of A Countryman printed here and not A Countryman from Dutchess County, printed above.[5]

1. Morton Borden identifies A Countryman as DeWitt Clinton and prints two extracts, but they are taken from different series, which are not distinguished (*The Antifederalist Papers* 103–4). DeWitt Clinton is also identified as the author by Main (*Antifederalists* 287) on the authority of Spaulding (*His Excellency George Clinton* 173). Spaulding merely says that DeWitt Clinton joined the fray with his "Countryman letters." Dorothie Bobbé, in her biography of DeWitt Clinton, describes "a series of letters under the signature of 'A Countryman' appearing in the Journal" in November and December of 1787 (*DeWitt Clinton*, 1933, p. 41). There was no November–December series but a November–February series and a December–January series. Bobbé refers to items in both series without distinction. The two series are also confounded by Linda Grant DePauw in her *The Eleventh Pillar*. See also Clarence Miner, *The Ratification of the Federal Constitution by the State of New York* 69–76.

2. To further complicate the matter, a *Federalist* series of letters, also signed by "A Countryman," appeared in the *New York Journal* at about the same time (30 November, 3 December, 5 December, and 17 December 1787).

3. DeWitt Clinton Papers (Columbia University). The long line after the "n" occurs at the end of a paragraph and probably does not represent a continuation of the name.

4. See Countryman from Dutchess County 6.6.7–8, 9–12. It should be observed that George was a very young man and probably quite partial in viewing his brother's productions. Unfortunately this consideration tends to lessen the value of George's

remarks as evidence of authorship one way or the other. It should also be noted that George himself might have failed to distinguish the two series or that he might have known that his brother was writing as A Countryman, while being mistaken about which one.

5. One fragment of evidence pointing (rather feebly it must be admitted) in the same direction is the absence of any reason for DeWitt Clinton to identify his Countryman as coming from Dutchess County. DeWitt Clinton was in New York at the time, and his home and associations were mainly in Orange county.

I
6 December 1787

Worthy and Esteemed Sir,

I received your letter of the 21st of last month with the new constitution 6.7.1
and several pieces for and against it, which you were kind enough to send me, and for which I return you my hearty thanks. You condescend to ask my opinion of it, which, I fear, will scarcely be worth the trouble it will give you in reading. All I know about politics, I learnt during the late troubles, and that chiefly by reading the votes of our assembly and the journal of Congress, which you were good enough, now and then, to lend me. In the fore part of the war, I had a very good opinion of our Congress and principal men, that were employed in public business—they appeared to me very honest and very much in earnest to forward the common cause, but I will honestly confess to you, that towards the last, when the danger seemed to be in a great measure over, and when they began to appoint ministers of finance, and ministers of one thing and ministers of another, I did not think so well of them. Near the end of the war, I sold a pair of as good fat cattle as any in the parts, to one of our commissaries, for thirty-pounds, which was cheap, and not more than they would have sold for before the war—he, indeed, appeared very generous, and did not seem to wish to bait me of the price—our bargain was for hard money, then pretty currently going in the country—but, instead of this, he gave me paper, that he called Morris's Notes, which, he said, was every bit as good, and I took them at his word; but, he was hardly gone from my house, before another man came, who said, he was immediately from Philadelphia, and told me a quite different story, and said, that they were much depreciated, and this made me very uneasy, you may be sure, as I did not like to throw away my cattle for nothing—however, he offered to take them from me, if I would make him an allowance, so I let him have them for five and twenty pounds, which, if I remember rightly, he called the discount—now, I thought this very strange, but my neighbour ——'s son, who, you know, was a serjeant in the standing forces, came home to see his parents a few days after, and he told me, there was nothing more common, for, whenever the soldiers got any pay it was in

that way, and that they were often obliged to sell, at the rate of ten shillings for the pound, and that they must either do it or starve, for they could not do without some money; but, that I was very wrong, for I could have laid out of my money a little while, and sent the notes to Philadelphia and got the cash, for that some of these notes issued, but when there was money at command to pay them off.—I told him, I thought this was very strange, since at that rate, they might send the money at once, as well as the notes—he said, I knew nothing of the matter, for, that there was a number of people always following the commissaries, quarter-masters, and pay masters, who bought these notes up in the manner they did from me, and who were concerned with great men, among them they made a great deal of money by it—whereas, if the money was sent at once, they would not have an opportunity of filling their pockets. Now, as I said before, I confess to you, worthy sir, this gave me a bad opinion of some of our great men; but to return to the new constitution, I really have not had much time to read it, or the papers about it, being much behind hand in my business this year, owing to one disappointment or another—I remember well that our first or second Congress, I do not know which, and I believe they were both made up of as wise and as good men as any ever we have had since, wrote letters to the people of England and Ireland, and to our neighbours in Canada, endeavouring to convince them, that we were right to oppose the late government, which they clearly proved was unjustly oppressing and injuring us. In their letter to the people of Canada, they complained grievously of the conduct of the rulers of our former government, and told them, that a certain Mr. Beccaria (who I suppose must have been a countryman of theirs, and, of course, more likely to be believed by them) says, "that there is an effort continually tending to confer on one part the heighth of power and happiness, and to reduce the other to the extreme of weakness and misery"; I believe these are the very words.[1] Now, I am really very much afraid, that this is the case with the new constitution men, for it appears to me, that this president-general will have a great deal of power, and I think the chance is as ten to one when he gets a standing army, and has the command of all the militia, that he may not make the best use of them, and I should not wonder at all (unless he should happen to be a very good tempered man) that the backs of some, of our militia men, would pay for it, as the tories did during the war—besides the senate seem to have a vast deal of power too, and from the manner they are appointed and continued in their places, I dont see how we are to set about to turn them out if they behave badly; indeed, good sir, the president looks to me very much like a king, and the senate like a house of lords, and, I suppose, the supreme judiciaries that are spoke of, will be like the lord justices of the assizes, or the twelve great judges in the old countries, where, they tell me, a man need to have a deep pocket if he goes to law, and that a poor man stands but very little chance, at any rate, to get justice done him, especially if he has to contend with a rich one—besides, it

seems to me, that the president and senate will have a great deal of business to do together, and it is so jumbled and contrived, that if they do wrong, we can hardly find out who to lay the blame to—and, I think it wont be a hard matter, as they have a great many good things to give, to get the assemblymen too on their side of the question, and I believe, we may pretty certainly expect, that if they once get fairly a going they will do as this Mr. Beccaria says, keep down the common people and encrease their own power, especially, as I see they are to have a common treasury, out of which they can pay themselves what they please, without asking any body, and I suppose they will make us sweat in taxes to keep it full.

6.7.2 There is another thing our Congress told the people of Canada, in their letter, and I believe they were in earnest, "That the trial by jury, was one of the best securities in the world, for the life, liberty and property of the people."[2]—Now to be sure, I am very much of their opinion in this; for I would rather trust my life, liberty and property to a verdict of twelve of my honest neighbours, than to the opinion of any great man in the world, for great men are not always honest men, and they may be too proud, and not care to give themselves the trouble to enquire very narrowly into common people's disputes; and if an honest farmer should happen to say any thing against a great man, tho' it was ever so true, it would be in the power of the judge to punish him for it very severely—and I don't doubt, but what he would do it; but I am sure a good honest jury of his neighbours would never punish him for speaking the truth; I know it is said that truth is not to be spoken at all times, but the best of us may be guilty of little acts of imprudence, for which however, we should not be too severely handled: I find the writers disagree about this matter; the one says this right of trial by jury is taken away by the new constitution, and the other says it is not.—Now, as they differ, I have been trying to find out the truth myself, and, it appears to me middling clear, that if it is not absolutely taken away; yet that this new General Congress, that we read of, may take it away whenever they please—now, if it is so good a thing that it never ought to be taken away, I think we ought not to give them power to do it; for I can't see the reason of giving them power, which they never can make use of, without doing us a great deal of hurt: Now all parties may mean what is honest at present, but notwithstanding, there may be a time, when we have bad men to rule us, and I think it would be imprudent to give power, which every one allows there is no necessity for, and with which bad men, if so disposed, might do us a great deal of harm, and I am more confirmed in this belief, when I think of what the said Mr. Beccaria says about this desire, which has always prevailed in men of increasing their power. This is all I can say about the matter at present, having, as I mentioned before, little time to attend to it; but, as my neighbour —— ——, whom you know to be a sensible thinking man, and has more learning than I have, has agreed with me to spend some time together to read it more carefully over, now that the evenings are growing

long, and the hurry of business is pretty near past, I will write to you again on the subject, if my letters do not prove troublesome.

6.7.3 Before I finish, I will relate to you, however, what has happened in our neighbourhood, since you were here, for although it is an affair of little consequence, it seems to me to be something like this new-government business; you know that we belonged to the —— congregation, and the church was at a great distance from us, and it was often very inconvenient to us, for many who had not horses for all our families to ride to church, were obliged, when it was bad walking, to stay at home, and in truth, we did not like the minister; this made us think of forming ourselves into a separate congregation, which, after taking the proper steps, we did; and we set about a subscription, and raised a little money, and built ourselves a small snug house to worship in, and called a very good kind of a man for a minister, who preached to us for a very moderate stipend, which we made out to pay him pretty punctually, considering the hardness of the times: and we were all very happy and contented, and religion seemed to flourish amongst us, until lately, that some of our young men, who were in the wars, returned home; some of these set about studying, and very soon became lawyers; others got a little goods, and became shop-keepers; and others done no business at all, but lived like gentlemen, expecting to get a living by public employments, as they called it: These young men began to find fault with every thing we did; they said, we were unacquainted with the world, and could not judge properly how matters should be conducted; they said our church was too small, too plain, and not well finished; and, upon this account, that we were despised by all the neighbouring congregations, who had larger and finer churches; and, it is strange to tell, but so it is, by these means they soon worked upon the vanity of some of our more elderly and serious people, and though they could not get them to consent to build a new church, they agreed to enlarge and repair the old one, and make it much more shewy. The next thing they did, was to get themselves with two or three of the elderly men (who were honest men and pretty wise about other matters, but knew little about repairing churches) appointed trustees to manage the business; which being done, they set about and collected a quantity of great heavy strong timber and other materials, and up they set a spacious large new house, as fine as you please, leaving the old one (tho a great deal weakened by taking out some of the under-pinning) standing, in the mean time to worship in, 'till the new one can be finished;—but now our difficulties began, the more sober part of the congregation found that this new building was a very expensive one, and was likely to create great divisions in the congregation, many of them liking the old one better than the new one, and thinking that it might have been repaired, so as better to answer all our purposes: these began to say, that they would pay nothing towards it, and have nothing to do with it: and, what greatly added to their dissatisfaction, was, that they found that it was not to end here, for from

some hints that were thrown out by those young men, and plans (as they are called) of the building, it was found, that this new building was so contrived, that it was to have a large steeple and galleries added to it, and large high pews in it for the better sort of people to sit in, so that they might not be troubled with the common people, or rabble as they fained to call them: and some even went so far as to say that upon raising the covering of that end of the church, where steeples are usually placed, and peeping in, that they had discovered the mortices and other things, which could only be contrived for adding a steeple to it in good earnest; this as you may judge, increased the discontent, until at length more than one half of the congregation refused to have any thing to do with it; the trustees finding this, brought suits against them to make them pay, what they said they had promised, and as they were chiefly lawyers, they had the advantage, for if judgment was given against them, they certiorared the justices, and put them to such costs and trouble in attending the courts at a great distance, that they are almost fairly tired and worried out; our poor minister too was led astray by these young men; they made him believe that his salary ought to be raised, and by following their advice in trying to get more, he, at last could get nothing at all, and was obliged to leave us: now in this our disagreeable situation, many of our most zealous and best-disposed people talk of breaking off entirely and joining the old congregation, seeing they cannot worship here peaceably without quarrelling, and too heavy expence for them to support, so that we are brought into a very sad pickle, by following the advice of these young men, and I do not know what will become of us. I heartily wish you could be among us a few days, in hopes, by your good advice, that we might get reconciled and to rights again; for we all place great confidence in you, and your opinion would have great weight among us; indeed, as I said before, I do not know what will become of us, if with our present difficulties and troubles, we should be saddled with more, by the new constitution.

I remain, honored sir,
Your real friend, and
Humble servant,
A Countryman.

II
13 December 1787

Honored and Good Sir,

Your kind letter of the 10th of this month gave me great relief, for I was sore afraid that my very long epistle to you, had wearied and offended you, which I am very glad to find is not the case, as you ask me to write to you 6.7.4

again, which I shant fail doing: my neighbour ——, and myself, as I mentioned to you in my last we intended, have since spent several evenings together, and sat up late, reading the new constitution, and papers, in hopes to come to a thorough knowledge of them, which to be sure, is not an easy matter; one thing, and it would appear but a trifling matter, puzzled us exceedingly, that is, the names the different writers have fixed upon one another; for we found that those who are for abiding by the confederation and strengthening it, so as to make it lasting, are called antifederalists; and the other party who are for throwing it aside, and having nothing farther to do with it, but are for making of us into one solid government, are called federalists: now I did not know the meaning of the high-flown words, but my neighbour told me, that antifederalists were people, that were against the confederation; and that federalists were those that were for it: now, as I said before, this puzzled us very much, and often prevented our understanding what we were reading—at length we both agreed, that either the writers themselves or the printers had made a mistake; so to hinder our being bothered any more, it was agreed, that my neighbour should take pen and ink, and strike out anti, where it was used, and put it to the other word, so as to make it read right all through, and this, I can assure you, was a great help to us, and well paid for the time it took, for we could understand what we read with much greater ease afterwards.[3] The day after, our old neighbour ——, who, you heard me tell, had just before the war, moved down to Pennsylvania, and had come up to see his friends here, and spent the next evening with us, and we mentioned the matter to him, and he told us there was nothing at all strange in it, for it was the way some great men had to deceive the common people, and prevent their knowing what they were about; he said it was just so down with them, for there was a party of grand men in Philadelphia, who had made a great deal of money during the war, and lived like princes, had been trying all their might to overset their constitution this several years, and he did not doubt, but they wished to have a king, that they might be lords, or something else still greater themselves and make more money again, yet they called themselves republicans, because they knew it was a name that is very pleasing to the pope [people?], when, in truth, they are no more republicans than the pope, or the pretender himself; this you may judge, worthy sir, cleared up the matter to us at once; however we did not repent that we made the alterations, for they will be useful to our neighbours, when we lend the papers to them to read. But to go on, after we thought we understood the new constitution, nearly as well as it can be understood, I thought to myself, I would shew my neighbour the last letter I wrote to you, for I kept a copy of it, which I did, and he read it over and over again, and it pleased me a good deal, to find, that he thinks, what I said there, was very right; but he said at the same time, that though my letter was very long, I had not been quite plain enough about one thing, for, he said, we should be careful not to give a bit more power to our rulers than we could

well help; for they would always find a way to get more fast enough, and they knew how to keep it when they once had it, so that we could never get any part of it back again; and to prove what he said, he put me in mind, that the convention was only sent to amend the old constitution, yet they sat about making a new one, though they had no power to do that at all, besides he made some other remarks which I will now mention to you, for we think very much alike about the business; he agrees with me, that very little dependence can be put on the president-general, and the senate, that they are to be appointed in a very odd manner, and would be so far above the common people, that they will care little about them, and when they get themselves fairly fixed in the saddle, there will be no such thing as to get them out again; but he seems to think, that the assemblymen, if there was enough of them, and if we could be sure that they would be honest and faithful, might give the others a deal of trouble, and hinder them from doing much mischief for a good while; but there are so very few of them, and the chance of getting good ones so little, from the manner which may be contrived by this new government, for making choice of them, that we cannot have much dependence from this quarter. We do not see but that they may order the election to be held in New-York city; I am sure; if they do, there is not one in a hundred of us country people, will be at the expence and trouble of attending there, to give our votes, except it should happen in the fall, just when we take our truck to market, and then a few of us might by chance, if we could get time give a vote, so that your mayor, and other great folks, may put in who they please, and, I believe, there is little doubt, but they will put in such folks as Mr. Beccaria speaks of, that will love to increase their own power, and keep down the common people;[4] besides, if the election should be ordered to be held at any other place, lords of manors, and other great folks will attend, and be able to divide these places among themselves, in spite of all the common people can do; indeed, my neighbour tells me, he has often heard some of these great people say (for you know many of them think a good deal of him, and tell their minds very freely to him) that we were very wrong to send to our present congress, some people that we sent there, that although they were honest, and men of good enough sense, yet they could do us little or no good there, for they were unacquainted with the world; and that no man could be of service, if he was not very rich, and had large family connections, and knew how to dance, and dress well. Now, I suppose it will be the same case in this new government; and if so, I am sure, we would lean upon a broken reed, if we rely upon the assemblymen a bit more than upon the others.

There is another thing, in this new constitution, that my neighbour and me, have talked a good deal about; it is what is called in the writings you sent me, article 9th, section 1st. Indeed, we hardly know what they will be at by this; for fear you should mistake me, I believe I had better write it down; they say, "the migration, or importation of such persons, as any of 6.7.5

the states now existing shall think proper to admit, shall not be prohibited by the congress, prior to the year 1808, but a tax, or duty may be imposed on such importation, not exceeding ten dollars for each person."[5]

6.7.6 Now we think it very hard, if that is their meaning, that they should make every man, that comes from the old countries here, pay ten dollars to the new government. A great many of us, have our relations in the North of Ireland, and other places, that were very good friends to us all the war, and gave a great deal of trouble to the British, and I believe, partly upon our accounts, who might wish to come and settle here, among us; and I am sure they would be of great service to us, but do not you think it would be a hard matter for them to pay for their passages, besides their other expences, ten hard dollars for themselves, and each person in their families, when they get to this country. But our old neighbour from Pennsylvania, says, that it is thought among them, to mean worse than this, that its true meaning, is to give leave to import negroes from Guinea, for slaves, to work upon the rich men's plantations, to the southward; but that it is not mentioned plainly on purpose, because the quakers, and a great many other good religious people, are very much against making slaves of our fellow-creatures, and especially, against suffering any more to be brought into the country, and this, if it was known, might make them all against the new government: now, if this is really the case, it is to be sure, much worse than my neighbour and me first thought it to be; for all good christians must agree, that this trade is an abomination to the Lord, and must, if continued, bring down a heavy judgment upon our land. It does not seem to be justice, that one man should take another from his own country, and make a slave of him; and yet we are told by this new constitution, that one of its great ends, is to establish justice; alas! my worthy friend, it is a serious thing to trifle with the great God; his punishments are slow, but always sure; and the cunning of men, however deep, cannot escape them. I well remember, that our congress (and I believe, as I mentioned before, that they were honest, good men who meant as they said) when they declared independence, solemnly said, that "all men were created equal; and that they were endowed by their creator with certain unalienable rights; and that among them, are these, life, liberty, and the pursuit of happiness." They also talked much about the sacredness of a trial by jury; and complained loudly, that the old government tried to hinder the peopleing of this country, by discourageing people to come here from the old countries; and for these, and other causes, they went to war, after making a solemn appeal to God, for the rectitude of their intentions; and even the infidel must confess, that God was remarkably with us, watched over us in the hour of danger, fought our battles, and subdued our enemies, and finally gave us success. Alas! my good friend, it is a terrible thing to mock the almighty, for how can we expect to merit his favor, or escape his vengeance; if it should appear, that we were not serious in our professions, and that they were mere devices to gratify our pride and ambi-

tion, we ought to remember, he sees into the secret recesses of our hearts, and knows what is passing there. It becomes us then to bear testimony against every thing which may be displeasing in his sight, and be careful that we incur not the charge mentioned by the prophet Hosea, "ye have plowed wickedness, ye have reaped iniquity; ye have eaten the fruit of lies, because thow didst trust in they ways, in the multitude of thy mighty men."[6] Here I shall finish this present letter; and when I find a little more leisure, I will continue to write to you again.

I remain,
Honoured Sir,
Your real friend,
And humble servant,
A Countryman.

III
20 December 1787

Worthy Sir,

My neighbour and me have been busy almost every evening, since I wrote to you last, and sometimes we set up very late, still trying all we could to find out the real meaning of this new constitution; but really, as I said before, we find it a hard matter to come at it. We cannot be reconciled to it, that people who may wish to come here from the old countries, to get clear of the oppression of great folks there, should be obliged to pay ten dollars, besides their passage and other expences, for leave to do it—and we cannot help still thinking it a very pitiful thing, in this new government, to give leave to make slaves of our fellow creatures, for the sake of a triffling sum of money:—these things set very heavy upon our mind, for we believe, that they are establishing wickedness instead of justice, let some folks pretend to what they will. We see that this new government will have power to levy and collect taxes, duties, imposts and excises upon us; now, with respect to the duties and imposts, we suppose that is money that is to be raised upon goods and liquors, that may be brought from abroad to this country, and we are very easy about it, for we are sure the less that is brought, the better it will be for us, for the less we will have to pay for; but as to excises, some of our neighbours from the old countries, where they say, they are as common as Mayweed—tell us that they will go to almost every thing—and, that if they set to work at this, they will make us pay more for the small beer and cyder we drink, than they would fetch, if we were to sell them and drink water in their stead. As for taxes, I will warrant you, we are at no loss about the meaning of that word, for we have learned by experience to understand

6.7.7

it pretty well—indeed many of us have been driven to our last shifts, to pay what has been demanded of us already by our own state—and, I am sure, if this new government sets about this work too, between both, we shall be sadly hampered, and ten to one, if not only our stocks, but our farms too, will be sold to satisfy the collectors: but this is not all, it seems there is to be a new sort of tax, which we have not before heard of, called a capitation-tax; I should never have found out what was meant by it, if it had not been for my neighbour, who tells me, it is a tax upon the head, and that a poor man's head, though he is not worth a groat in the world, must pay as much, as a rich man's head, let him be ever so wealthy;—now this appears to me very little more like justice, than the affair about the poor blacks, though it may not be quite so wicked; for, although a poor man may have as good a head and as much brains in it, as a rich man, and be as honest and as wise a man; yet, where there are any good things a going (such as any place, by which there is a deal of money or honor to be had) the rich man's head is always best then, and, by one means or another, he finds out ways to get these things to himself; so that I think his head ought to be taxed more than the poor man's, for it is an old and true saying, pay alike share alike: besides, he has more of the good things of this world, and is better able to pay.

6.7.8 There is one thing, worthy Sir, that has given us a deal of trouble; we have seen on reading the constitution through the first time, that there were some things mentioned which, it is said, this new government should not do—and, we thought it very right, that they should not, for to be sure they were such things, as we would not like to see done; but upon reading it over and over again, and attending to it still more carefully, we began to think between ourselves, what could be the reason of saying they should not do these things, because, as we had understood matters at first, there was no power given to this new government to do them;[7] one of these matters I mean, is, where they say, "No title of nobility shall be granted by the United States," now it is very plain to me, if there was no power given to this new government to grant titles of nobility, (I suppose what it means is to make lords) then there was no occasion to say that they should not do it, because it would be very foolish to say, that they should not do a thing which they could not do; this, as I said before, made us examine it again, and that very closely, and to be sure, to our great surprise, we found out some clauses, and some big words that we had not before taken notice of, appear to carry with them a very broad meaning, and though they did not just mention any thing about making lords, or (as it is called) granting titles of nobility, yet it very well may be, that these clauses give them power to do every thing, only, what it is said, they should not do—and my neighbour who understands what he reads better than me, thinks this must be the case, for he can't believe that such wise men, as they say, the convention was made up of, and a great many of them judges and lawyers too, would have ever taken so much pains to guard against this new government's doing things, which

they would have had no power to do. But, as this seemed to us a matter of no little consequence, and we did not like to be in a mistake about it—my neighbour, who stands well with the young lawyers, and lads who are looking out for public employments, asked me to come over the next evening to his house, for he would have a parcel of them there, and we would try whether we could not find out their opinion about this matter; I accordingly went the next evening to my neighbour's, and there, as he promised, he had a number of them—he soon began to talk with them about the new constitution, and mentioned several of the difficulties we had met with to understand it, and some things in it which appeared to us not to be right; such as the taking away the trial by jury, head-tax business, and encouraging the making slaves of our fellow-creatures; but we found they did not like to speak much about it, and that they were very loth to say a word against it, they seemed indeed, to think there might be some small things in it which might have been as well left out; but, upon the whole, they said it would do very well, and that when we once got it agoing, we could mend it; and that something must be done, or we will all git into anarchy (as they called it) and confusion; my neighbour asked them, whether it would not be the best and safest way to mend it first, for fear if we once parted with so much power, as was given to this new government, we could never git it back again, and put them in mind of what Mr. Beccaria and other great men (whose names I do not remember) had said about giving more powers than were necessary to rulers; but, they did not like this and said, if we once began to alter, we should never agree about it, and get a quarrelling with one another. Indeed, good sir, I have but very indifferent thoughts (to say no worse) about these young men, for though I hear that in other places many of their cloth are very honest, and think very right about matters, yet those among us appear to be guided entirely by their own interest; they hold themselves above their neighbours, and seem to think themselves better and wiser than every body else, and I have heard that they do not scruple saying in private, that this new government would be a fine thing for them; that it will make a great deal more law business; that they will git higher costs; and that it will not be in the power of the country-members to keep lowering them as they have done lately, for the state legislatures will have nothing to do with these grand courts or any thing else of consequence, for which, they say, they are not fit. It is even said, that some of the young men who are looking for places, are so taken in with the notion of a standing army, that they have already bespoke cloth at the shop-keepers for regimentals. Now for my share, I am fully of my neighbours opinion, that it would be best to mend this new government before we agree to take it, for if we cannot agree to make it good now without quarrelling, I do not see how we will agree to do it afterwards—indeed, I think, it will be much harder; for those that have once got the power, I am afraid, will be very unwilling to part with it—they tell me it is no common thing, nay, some go so far as to say, it has never been

known to happen. I should think it a very unwise thing to pull down an old house, in which I lived very comfortably for many years, and which had sheltered me and my family, and move into a new house, just to gratify the pride and vanity of the children, because it was larger and appeared finer, on the outside, when I knew at the same time, that it was not well finished within, that the foundation was bad, the chimnies smoky, the roof leaky, and many of the posts rotten, so as to make it dangerous to go in it, and that it would cost me more than I was worth in the world to furnish and keep it in repair, and I am apt to believe if I got ruined by it, I should meet with few to pity me; and yet it is strange, we are told if we do not do something as foolish as this about the new government, we shall get a quarrelling; but let them quarrel that will, I am for continuing peaceably in the old house, and for mending it now and then, as it stands in need of it. I observe from the papers you sent me, that those who are warmly in favor of this new government, say, that it will make us able to pay our debts, establish our credit, and make us respectable abroad; but I cannot see how it is to do all these good things, and they have not undertaken to tell us; I think it but a poor way to pay debts by getting a more costly government, and I cannot see that it will establish our credit, by being fickle and changing every day from one thing to another; I am sure an unsteady whimsical man, is but illy trusted by his neighbors, for few will put any dependence upon him; and I believe it will be pretty much the case with a government, that is always changing, for though it might be something this year, that we liked very well, and were very fond of, next year it might be changed into something else that we did not like at all, and could not bear to live under; and I can hardly think, it would make us very respectable abroad, when the people in the old countries found out, that we could not be contented, neither with the one thing or the other, and did not know what we would be at ourselves; besides, for my own part, I think we ought first to make ourselves happy at home, and I believe that will be found the best way to make people abroad think well of us. O my good friend, we ought carefully to guard against the pride and vanity of our hearts, which are always taking us from the good old way, and leading of us into new schemes and devices, and are dangerous enemies to our happiness both here, and hereafter; if our great men were oftener to read their bibles, they would find many lessons on this head, which might be of great service to them, and fit them better for the high places to which they are called; they might profit much on the present occasion by attending to the history of the Children of Israel, as recorded in that holy book; they did not trust in the promises, which were made them by their heavenly father through his holy prophets; they were restless under the government, which was appointed over them by the Almighty; they were fickle and fond of changing; they were ambitious, and wanted to appear respectable abroad; they must be like all the nations, have a king to judge them, and to go out

before them, and fight their battles; notwithstanding, that good prophet Samuel protested solemnly against it, by the command of our maker, and shewed them the manner of the king that should reign over them, yet they would have a new government, and they got Saul the son of Kish for a king; the history of whose wicked reign I need not relate to you. O my dear sir, we ought to be much in prayer with God, least the same temper which seems to prevail too much at this day among many of us, should bring down upon our land also some heavy judgment; for to me it appears as if there was a rod in soak for us.

I remain,
Honoured Sir,
Your real friend,
And humble servant.
A Countryman.

IV
10 January 1788

Worthy Sir,

Since I wrote to you last, I have been giving the new constitution another reading, though, in truth, I got almost sick of it; and, I find by one clause, which I had not taken so much notice of before, that all laws, treaties, etc. made by this new government, is to be the supreme law of the land, the state constitutions, or any of their laws, to the contrary notwithstanding;—now besides, the powers it takes away, in so many words, from our state governments, and to be sure it takes so much, as to leave them, in my poor opinion, very little; its laws and treaties may take away more, and so alter and change what little is left, that no body among us, except the lawyers, will be able to know any thing about our own state constitution and laws—and, I do not believe, they themselves will understand them; I will warrant you, they will not like it the worse for that, for they will always give it such a meaning, as will best suit their own purposes. I find too, that all our state officers are to take an oath or affirmation to support this new constitution—now as they are bound by an oath to support our state constitution too—and as it is almost impossible to find out the meaning of the new constitution, and how much power would be taken away from the state governments in the first place, and altogether uncertain how much more may hereafter be taken away by laws and treaties which may be made under the new government, I cannot, for my share, see how an honest man will be able ever to take such an oath; for one day he may be bound by oath to 6.7.9

observe a law made by his own government, and the next day out comes a law or treaty from the general government, by which he is obliged by oath to do the contrary; and if he doubts the right of the general government to make such a law or treaty, to be sure, he will be in a very disagreeable situation. Indeed, my good sir, it is a serious thing to trifle with an oath; and, I think, they ought to have mentioned clearly and plainly, how much power they meant to give to the new government, and how much they meant to leave with the states, before they required oaths of people; and, I believe, it is very certain, that if this general government takes place, they will never get an honest man to serve in either;—for no man but he that has a conscience that will stretch like a tripe, will swear to perform a duty that he cant understand.

6.7.10 I observe, that, by the new constitution, they have guarranteed to the respective states a republican form of government—now I conclude this was, because it was thought the best form and most pleasing to the people; but I cannot find, at the same time, that they have made any engagements, that this new government shall continue to be republican; and I see, they have contrived a way to change it into what they please, without giving themselves the trouble to consult the people about it: as they have taken away almost all powers from the state governments, I think this guarrantee to them of a republican form of government will be of very little use, for what good can the mere form or shadow do, when the substance is lost?

6.7.11 Indeed, worthy sir, according to my weak judgment, this new constitution is a very bad one, and if ever it should be agreed to, I am afraid we shall have reason to rue it. It appears very strange to me, that some people who were lately fighting for liberty, should so soon turn tail, and now endeavour to establish a tyranny over their country: and I think, it is not uncharitable to conclude, that instead of contending with the old government for the sake of liberty, they were contending for power—which, no doubt, they will have plenty of, when the new constitution takes place: however, I hope, they will be disappointed, for I can assure you, there is not a man in our parts, but what thinks of it exactly as I do, and is determined at all hazards, to have nothing to do with it; for it would be vain and foolish, indeed, to spend so much blood and treasure to rid ourselves of one tyranny and set up a worse.

6.7.12 I am greatly indebted to you, for putting yourself to the trouble of sending me so many papers about this matter—and as they must be attended with some expence to you, I beg you will send me no more of them; for I have seen enough to convince me very fully, that the new constitution is a very bad one, and a hundredfold worse than our present government; and I do not perceive, that any of the writers in favour of it (although some of them use a vast many fine words, and shew a great deal of learning) are able to remove any of the objections which are made against it. Mr. Wilson, indeed, speaks very highly of it; but we have only his word for its goodness; and nothing is more natural than for a mother to speak well of her own bantling,

however ordinary it may be. He seems, however, to be pretty honest in one thing—where he says, "It is the nature of man to pursue his own interest, in preference to the public good"[8]—for they tell me he is a lawyer, and his interest then makes him for the new government, for it will be a noble thing for lawyers; besides, he appears to have an eye to some high place under it, since he speaks with great pleasure of the places of honour and emolument, being diverted to a new channel, by this change of system. As to Mr. Publius,[9] I have read a great many of his papers, and I really cannot find out what he would be at; he seems to me as if he was going to write a history, so I have concluded to wait and buy one of his books, when they come out. The only thing I can understand from him, as far as I have read, is, that it is better to be united than divided—that a great many people are stronger than a few—and that Scotland is better off since the union with England than before; and I think, he proves too, very clearly, that the fewer nations there are in the world, the fewer disputes will be about the law of nations—and the greater number that are joined in, one government, the abler will they be to raise ships and soldiers, and the less need for fighting; but I do not learn that any body denies these matters, or that they have any thing to do with the new constitution. Indeed I am at a loss to know, whether Mr. Publius means to persuade us to return back to the old government, and make ourselves as happy as Scotland has by its union, or to accept of the new constitution, and get all the world to join with us, so as to make one large government—it would certainly, if what he says is true, be very convenient for Nova-Scotia and Canada, and, for ought I know, his advice will have great weight with them. I have also read several other of the pieces, which appear to be wrote by some other little authors, and by people of little consequence, though they seem to think themselves men of importance, and take upon them grand names, such as Curtius, Caesar, and the like.[10] Now Mr. Caesar do not depend so much on reasoning as upon bullying—he abuses the people very much, and if he spoke in our neighbourhood as impudently as he writes in the newspapers, I question whether he would come off with whole bones: from the manner he talks of the people, he certainly cannot be one of them himself; I imagine he has lately come over from some old country, where they are all Lords and no common people—if so, it would be as well for him to go back again, as to meddle himself with our business, since he holds such a bad opinion of us. I have already gave you a great deal of trouble, honoured Sir, with my long letters—I shall therefore conclude, hoping if any thing new is stiring, that you would be kind enough, now and then, to drop me a line, and let me know how things are going in your city.

I remain with great respect,
Your assured friend and
Humble servant,
A Countryman.

V
17 January 1788

Worthy Sir,

6.7.13 I might have saved myself a world of trouble, in searching to find out the meaning of the new constitution, if I had only attended a little more closely at first, to that clause, which says, the Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence, and general welfare of the United States—and the other clause, which gives them power to make all laws, that shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers, vested by this constitution, in the government of the United States, or in any department, or officer thereof. The first gives them power to do any thing at all, if they only please to say, it is for the common welfare, for they are the only judges of this—and, my neighbour is clearly of opinion, that they have power, under these clauses, even to ring and yoke all the hogs in the country; and a great many people, who have much meadow-lands, and who have them often rooted up and spoiled by the swine, think it would be for the general welfare; for they suppose, in this way, and in their[11] corn-fields, if it was all reckoned up, they do more damage than they are worth, when they are fit for the knife—so, if this is the case, it would certainly be for the general welfare, not to let them run at large at all. By the last of these clauses, it would appear, that there are some powers vested in this government, besides what are mentioned in it, since it speaks of the aforegoing, and all other powers: now I do not think it worth while to waste any time, in finding out what these other powers are, for those which are mentioned, will take in every thing, but the two or three little matters, they have excepted.[12] As I said before, though I did not like the whole constitution, I was pleased to find that this new government would be prevented from making lords, and ex post facto laws; but I begin to doubt, whether these things were not put in on purpose to shew, they would have had authority to do them, if they had not excepted[13] them—and to confirm more strongly their power of doing every thing else; howsomever, my old neighbour from Pennsylvania tells me, that this ex post facto law business was put in, not because it was a bad thing, but to place it out of our power of calling to account, people who have the public monies in their hands—for, by this means, there will be no such thing as getting at them, and indeed I think it is very likely, that this may be the case, for if they were really honest, and meant to hinder the doing of a bad thing, why did they not also say, that the Congress should never take away, the rights of conscience, trial by jury, and liberty of the press? These are all rights we hold very dear, and yet we have often read, and heard of governments, under various pretences, breaking in upon them—and upon the rights of conscience particu-

larly; for in most of the old countries, their rulers, it seems, have thought it for the general welfare to establish particular forms of religion, and make every body worship God in a certain way, whether the people thought it right or no, and punish them severely, if they would not: now, as it is known, that there has been a great deal of mischief done by rulers in these particulars, and as I have never read or heard of any great mischief being done by ex post facto laws, surely it would have been of more importance, to have provided against Congress, making laws to take away liberty of conscience, trial by jury, and freedom of the press, than against their passing ex post facto laws, or even their making lords. I conclude therefore, that there may be a great deal of truth, in what my neighbour from Pennsylvania says, about this matter.

By this new constitution, there are several things, which it is declared the state governments shall not do, such as emitting bills of credit, making any thing but gold or silver coin a tender in payment of debts, and passing laws for the impairing the obligation of contracts, etc.—but I do not find, that this new government are hindered from doing these things, and yet if they are bad things, it appears proper that they ought to be hindered from doing them, as well as the state governments—for I do not see, why we are to expect honester men in the general government, than in the state governments; there will be a great many there, that we never heard of or know any thing about; and I am sure we have suffered more by the paper money made by Congress than we have by that made by our own assembly. Indeed, Worthy Sir, take the new constitution all together, it is an odd jumbled kind of business, and yet some people say, they were very wise, honest men, who made it—though I have no doubt some of them might have been very honest, but I am widely mistaken, if the bulk of them were both honest and wise. 6.7.14

I am,
Honored Sir,
Your real friend, and
Humble servant,
A Countryman.

1. *Journals of the Continental Congress* I, 106. The address, published in 1774, quotes from the Introduction to Beccaria's *Essay on Crimes and Punishments*. See Federal Farmer VII, 2.8.97 n. 61.
2. This is a paraphrase or summary of the Congress's discussion of trial by jury. *Journal of the Continental Congress* I, 107. For other Anti-Federalist discussions of trial by jury, see Plebeian 6.11.15 n. 13; for Federalist views see Federal Farmer II, 2.8.19 n. 16, Old Whig III, 3.3.16 n. 17.
3. On the confusion of names see Martin 2.4.43 n. 12.
4. See above, n. 1.
5. For other discussions of this clause see Martin 2.4.65 n. 24.
6. Hosea 10:13.
7. See Brutus II, 2.9.30 n. 22.

8. McMaster and Stone 148.
9. This is of course the author of *The Federalist*.
10. For the essays of Caesar, see Ford, *Essays* 279–91. See Cato 2.6. intro. n. 6. I have not found Curtius.
11. The original reads, "they."
12. The original reads, "accepted."
13. The original reads, "accepted." See Brutus II, 2.9.30 n. 22.

Essays by Sidney

ALBANY GAZETTE
February–March 1788

"Sidney" describes himself at one point as "a compiler rather than an author"; and while his own arguments are routine and sketchy, his essays are a rich source of characteristic Anti-Federalist authorities. The first two essays present a confused and fragmentary account of the illegitimacy of the Constitutional Convention and the dangers lurking in the new Constitution. Sidney goes on to contend that the new Constitution is not necessary to regulate trade, or to maintain the glory and credit of the United States, or to revive an alleged indifference of the people with respect to government (essay 3). He shows, finally, that Americans have as much reason to distrust their rulers as Europeans do (essay 4). These essays first appeared in the *Albany Gazette* in the winter of 1788, but in the absence of surviving copies of some issues of that journal, some of them are reprinted here from the *Country Journal and the Poughkeepsie Advertiser*. According to Linda Grant DePauw, the Sidney essays were probably written by Abraham Yates.[1]

1. *The Eleventh Pillar* 131 n. 45, 291.

I

(POUGHKEEPSIE) COUNTRY JOURNAL
5 February 1788[1]

"I Aim at reformation, not satire; as I mean no invidious reflections, but only to give my sentiments with that honest freedom to which every American *is entitled by birthright: I shall just state from Polybius, the means by which all mixed governments have originally deviated from the first principles, which were the basis of their rise and grandeur; how by this deviation, they tended towards their decline, and that those means, acquiring additional force from that very decline, necessarily produced those evils which accelerated the destruction of every free people."* Montague.[2]

6.8.1 The discussions heretofore published, in favour of the requisitions of Congress, of the 3d February, 1781, and 18th April, 1783, for vesting that hon. body with power to levy an impost of five per cent.[3] have appeared under the favourable aspect of a mere regulation, necessary and proper for the satisfaction of the public creditors and the support of national faith; as if, by investing Congress with a revenue, to be collected by officers of their own appointment, and laws of their own making, the public creditors would be sooner paid, and the national faith better preserved; but to [. . .] in its progression, it has assumed another form; we are now soon (perhaps too soon, for we have got into a habit of doing business either in secret or in haste) to be called upon to change the very principles of our government:[a] contrary to the opinion of former authors, and to adopt that reposted by the Convention, lately assembled at Philadelphia; in which the United States are to be consolidated, so as to become one republic, of upwards of four thousand miles[b] in circumference; Congress invested with legislative and judicial powers, and with it to decide whether we shall establish a strong executive, as well as to surrender an actual for a virtual representation.

6.8.2 The Dutch have made experiments in both. By the one, they have entirely lost the right[c] of representation; by the other, they have embarrassed themselves with a stadtholder[d] (a strong executive whose mal-administration, within the space of forty years, has become so intolerable that the inhabitants, to get rid of him, are this day on the brink of ruin).

a. "It is proper also (says Bacon) not to try new experiments in the political body, unless the necessity be urgent, and the utility evident; and take care that the desire of reformation, may occasion the change—and not the desire of the change plead for the reformation. Again, let all novelty, though it cannot perhaps be rejected, yet be held suspected: and lastly, as the scripture directs, Let us stand up on the old paths, and see and ask for the good way, and walk therein." 2 Bacon 154.[4]

"Polybius having traced government up to its first origin, explains the principle by which different governments arise (?) to the summit of their power and grandeur, and proves that they sunk to ruin, by a more or less rapid progress, in proportion as they receded more or less from the first principles on which the 6 were originally founded." *Montague 363*[5]

b. "Political societies, like the human body, have their limits circumscribed, which they cannot exceed without disturbing their œconomy. An overgrown republic can only be saved from despotism, by subdividing it into a number of confederate republics. Marquis Becaria.[6]

"It is natural (says the great Montesquieu) for a republic to have only a small territory, otherwise it cannot long subsist," etc.[7]

c. "The magistrates of a certain city in Holland, so ordered the business, that the people in a general assembly, gave up the right of election; since which time, the senators have filled up all vacancies in their own body; and this example has been followed by all the other towns in the provinces." 1 Bowen 547.[8]

d. "This office in a manner supercedes the constitution. The stadtholder is president of the states of every province; and such is his power and influence, that he can change the deputies, magistrates and officers in every province and city: by this, he has the moulding of the assembly of the states general, though he has no voice in it; in short, though he has not the title he has more real power and authority than some kings." Guth. Gram. 418.[9]

In these discussions, those who opposed the measures, and were for adhering to the confederation (as if words had lost their meaning) were distinguished by the appellation of "anti federal," and those who were for altering the confederation and investing Congress with an independent revenue, assumed the epithet of "federal men"; and notwithstanding the late Convention, in their letter of the 17th September, have decided, viz. "that the *impropriety* of delegating such *extensive* trusts to one body of men is *evident*," still the delusion is carried on, they call themselves federalists, when, in the same breath, they do not hesitate to say, they mean entirely to destroy the confederation![10] 6.8.3

Misrepresentations, equally delusive, have been made in attempting to induce the several legislatures to invest Congress with the above mentioned revenue, with those, now daily propagated to establish the new constitution. While the former was in agitation, the papers were filled with accounts that several of the States had agreed to the impost system, and at last they went so far as to assert, that it had been adopted by eleven states, and that there were but two that had refused; and what is astonishing, gentlemen in distinguished stations, attempted to confirm those misrepresentations; it was however discovered, when the laws of the different states, respecting that system, were published, in the year 1786, that it was doubtful whether two, of the thirteen, had fully adopted it.[11] 6.8.4

When the late Convention was sitting (and under an injunction of secrecy) scarce a newspaper appeared, without a recommendation of the government in expectancy—That a government to be agreed to and countenanced by General Washington and Doctor Franklin, would be such as all good men ought to approve, and none but bad men would disapprove; and those who refused to give it their approbation, until they should have an opportunity of examining it, were treated as infidels in politics—and threatened, should they withhold their assent, to be insulted, tarred and feathered, and even in the late discussions, we meet with observations, tending to impress an opinion, that the consent of General Washington and Dr. Franklin, is not only a conclusive argument, to induce the people at large to determine in favour of the constitution, but that even to suppose they have erred or been imposed upon, is an impeachment of their understanding and integrity. A most extravagant way of reasoning.[12] For when we calmly consider we shall find, that to err is inseparable to human nature; to be sure, to suppose that there was ever a general who understood military government better than the one, or any philosopher better acquainted with the powers of electricity than the other, would be justly reprehensible; but that they (admitting that they are not therefore the [. . .]) should therefore be considered better, and even infallible judges of civil government (and that too, when they differ with Montesquieu, Locke, Sidney, and many other celebrated authors upon government) is inadmissible. 6.8.5

When this new constitution was reported, and suffered by Congress 6.8.6

barely in its passage to go on to the several legislatures, without their approbation; it was represented in the papers as having passed Congress with unanimous consent: now for a while we have been entertained with stories, how acceptable it is to the people in the several states—how readily the legislatures order conventions—and how those are insulted and their conduct reprobated, who are opposed to it; and I shall not wonder, hereafter, to see it asserted in the papers, that it has been adopted by eleven states; when again, upon enquiry it may not have been fully adopted by two states.

6.8.7 This *kind* of management is not uncommon after revolutions. Goldsmith mentions, that after the battle of La Houge (within four years after king William ascended the throne of England) "patriotism began to be ridiculed as an idle virtue—the practice of bribing a majority in parliament became universal: the example of the great was caught up by the vulgar, principle and every decency was gradually banished—talents lay uncultivated, and the ignorant and profligate, were received into favour. That to remove the evil, parliament were diligent in restraining the universal corruption, that seemed to prevail over the whole kingdom—they were assiduously employed in bringing those to *justice* who were *grown wealthy* by *public plunder,* and encreasing the number of laws which restrained the art of peculation."[13]

In the mean time Addison and Steele, in allusion to the doctrine, then propagated by Sacherveral and others, engrafted upon the policy of the cabal; "who were for establishing such a perpetual and extensive fund of revenue, to advance the prerogative, as would render parliaments useless," tried to open the eyes of the people.[14]

6.8.8 "I have frequently (says Addison) wondered to see men of probity, who would scorn to utter a falsehood for their own particular advantage, give so readily into a lie, when it becomes the voice of their faction, notwithstanding they are thoroughly sensible of it as such." "Some tell us (says the same author) we ought to make our government upon earth, like that in heaven; which, say they, is altogether monarchical and unlimitted; was man like his Creator in goodness and justice, I should be for following this great model; but where goodness and justice are not essential to the rule, I would by no means put myself into his hands, to be disposed of according to his particular will and pleasure.

6.8.9 "Where the prince is a man of virtue, it is indeed happy for his people that he is absolute; but since in the common run of mankind, for one that is wise and good, you find ten of a contrary character, it is very dangerous for a nation to stand to its chance, or to have its public happiness or misery depend on the virtues and vices of a single man."[15]

6.8.10 Steele, under the figure of two dancers, represents the operation of the two forms of government, viz. absolute power, and the representation of a free state.[16] In the first, he introduces absolute power, in the person of a tall man, with a hat and feather, who gives his first minister, that stands just

before him, an huge kick—the minister gives the kick to the next below, and so to the end of the stage. In this moral and practical jest, you are made to understand, that there is, in an absolute government, no gratification but giving the kick you receive from one above you to one below you; this is performed to a grave and melancholy air; but, on a sudden the tune moves quicker, and the whole company fall into a circle and take hands, and then at a certain sharp note, they move round and kick as kick can. This latter performance, he makes to be the representation of a free state; where, if you all mind your steps, you may go round and round very jollily, with a motion pleasant to yourselves and those you dance with; nay, if you put yourselves out, at the worst, you only kick and are kicked, like friends and equals.

The two following paragraphs, taken from DeWitt's political maxims,[17] contain a concise history of the management in the United Netherlands, after their revolution. 6.8.11

"It appears (he says, page 7, 415) that the inhabitants of a republic are infinitely more happy, than subjects of a land governed by one supreme head; yet the contrary is always thought in a country where a prince is already reigning, or in republics, where one supreme head is ready to be accepted.

"For not only officers, courtiers, idle gentry, and soldiery, but also all those that would be such, knowing, that under the worst Government they use to fare best, because they hope that with impunity they may plunder and rifle the citizens and country people, and so by the corruption of the government enrich themselves, or attain to grandeur, they cry upon monarchical government, for their private interest, to the very heaven: although God did at first mercifully institute no other but a commonwealth government, and afterwards in his wrath appointed one sovereign over them. Yet for all this, those bloodsuckers of the state, and indeed of mankind, dare to speak of republics with the utmost contempt, make a mountain of every mole hill, discourse of the defects of them at large, and conceal all that is good in them, because they know none will punish them for what they say.

"The matter being thus, we must say, that all persons who for their particular interest do wilfully introduce such a monarchical government into our native country, will commit a crime which afterwards can never be remedied, but like Adam's original sin be derived from father to son to perpetuity, and produce such pernicious effects that all the good order and laws of these provinces, whether civil or ecclesiastical, must at length be subverted. And, seeing *crimen magistratis* is properly committed against the laws of the sovereign power, namely either to assult the legislator himself, or to endeavour to alter the sovereign government; we must therefore conclude that the said inhabitants will by so doing make themselves guilty of *crimen magistratis and pas duellionis non fluxem sed permanens ni deternum,* the most grievious, most durable and endless treason against this country."

6.8.12 I shall add an observation of Sallust that happened after the revolution[18] at Rome, for he affirms, "that after the expulsion of the King, as long as the fear of Tranquin and the burthensome war with the Etrurians kept the Romans in suspense, the government was administered with equity and moderation. But as soon as ever the dread of those impending dangers was removed, the senate begun to domineer over the people and treat them as slaves; inflicting death or scouring after the arbitrary manner of dispotic tyrants; expelling them from their lands, and arrogating the whole government to themselves without communicating the least share of it to the Plebians." Thus, "the people, before the creation of this magistracy, were amused with the name of liberty, whilst in fact they had only changed the tyranny of one for the more galling yoke of threehundred. But the tribunital power proved an invincible obstacle to the arbitrary schemes of the aristocratic faction, and at last introduced that due admixture of democracy, which is so essentially necessary to the constitution of a well regulated republic."

6.8.13 To conclude for my own part, at this day when the matter has been discussed, and the dangers so fully pointed out; and, considering how zealous we have been in the cause of human nature, to counteract the kidnaping, and to secure the Africans, and their posterity from slavery; it is with difficulty I can suppose, persons of information recommending the adoption of this new constitution serious. It makes its appearance, in a worse point of view, than the carriage, after the horses have taken a start, and disengaged themselves from the reins; for there you may follow the track, and find the vehicle, which though abused, the owner may at his leisure repair. But upon the start of the late convention, when they refused to be guided by their credentials (which expressly confined their powers to be *for the sole purpose of revising and amending the confederation)* and presuming to recommend to the people this new instrument, is more like the horse-hunter, who after having used every contrivance to trap, and ensnare, has recourse to wheedling, and cajoiling, he goes up to the horse, and invites him to a [ ], and while he perceives that the animal is apprehensive that he will deprive him of his liberty, scratches his ears, tries to make him believe, that he will not do like other horse hunters, and abuse him; but if he will suffer him to put on the halter, he will give the animal usage as he likes and such as will be better for him than Liberty, or at the option of the animal set him at liberty again; but no sooner has he the halter well fixed, and the horse shews an inclination to disengage himself, he tells him, I have you fast now, and do what you can I shall not let you go, and you shall do what I order you, I will rid, whip, and spur you, and you shall have no more rest nor food than is sufficient to keep your skin and bones together; and when you are no longer fit to do my work, I will sell you, or if you die, I will sell your skin.

Sidney

II
21 February 1788

"Let Cicero then live in submission and servitude, since he is capable of it; and neither his age nor his honors nor his past actions, make him ashamed to suffer it: For my own part, no condition of slavery, how honorable soever it may appear, shall hinder me from declaring war against tyranny, against decrees irregularly made, against unjust dominion, and every power that would set itself above the laws." Brutus.[19]

The dangers of adopting the new Constitution having been pointed out, I shall now proceed to consider, whether it would be necessary and proper; and, whether Americans have any good reason to put more confidence in their rulers than Europeans. 6.8.14

It is, admitted, that it has been matter of dispute, at all times, whether a monarchical, aristocratical or democratical government is the best. It was the case in the time of Samuel, and in the council of the seven princes of Persia: this was also the case with the Dutch upon their revolt from Philip the second—with the English after the death of Charles the first, and the Americans during the late revolution.

It is, however, established by the experience of all ages, that, in the two first, there is no security for the rights of the people; in the last, no dispatch.—"That the two first are too strong, encroach too much upon liberty, and incline too much to tyranny; the last too weak, delivers people too much to themselves, and tends to confusion and licentiousness."[20] 6.8.15

These were the rocks we had to avoid, when, in 1777, we agreed to a republican government.

"In political arithmetic, it is necessary to substitute a calculation of probabilities, to mathematical exactness. That force which continually impels us to our own private interests, like gravity, acts incessantly, unless it meets an obstacle to oppose it."[21] 6.8.16

"A perfect government (says Rollin) would be that which should unite in itself, all the advantages of the three former, and avoid the dangers and inconveniences they include";[22] and then it is called a republican or mixed government. Such, even in their present state, are the English and the Dutch.

But a difficulty remained, what proportion of ingredients should be taken out of each; or, in the words of Montesquieu, "to combine the several powers, to regulate, temper and set them in motion—to give as it were ballast to the one, in order to enable it to resist the other";[23] (the English and the Dutch have missed it in their compound, by adopting, the first, too great a proportion of the monarchical—the Dutch, too much of the aristocratical ingredient) and even then, all the difficulties would not be removed, as the fundamental principles they act upon are so different. 6.8.17

6.8.18 In a monarchy, the king* rules in duplicity and partiality, and makes himself *respectable* among the *nations* of the earth, by *luxury, extravagance*† and *dissipation;* when, on the contrary, in a republic there is no king except the LORD OF HOSTS, the pillars of whose government are righteousness** and truth; and to them and them only, ought all nations upon earth to look for respecticability. In considering the rules of propriety, the principal object with the one is, how to be generous; the other how to be just. And in respect to the public burthens, the former considers how much he can spend—the latter, how much they can save: That, how much the people can bear—this how little may do—The Congress at Philadelphia (a body of men, in the words of Mr. Pitt, "that for solidity of reasoning, force of sagacity, and wisdom of conclusion, no nation or body of men stand in preference to")[30] upon the greatest deliberation and circumspection, unanimously agreed to a republican form: wherein, they have united all the advantages of the three former, and, as much as possible, avoided the dangers and inconveniencies of each (the objection of Maryland was not to the form of government, but to the soil and jurisdiction of all the western lands—not foreseeing, as they now do or soon will, the dangerous tendency it would have to the liberty and property of the old states) not that I suppose it perfect: for I hold, that there never was nor ever will be a government perfect, so as not to be open to corruption (unless at Millenium) but I am persuaded, that every person who has considered the difference between the condition of the people in Europe, compared with those of the United States of America, will agree with Doctor Franklin; who says, "whoever has travelled through the various parts of Europe, and observed, how small is the proportion of people in affluence or easy circumstances there, compared to those in poverty and misery; the few haughty landlords, with the multitude of poor, abject, rack-rented, to the paying tennants and half paid, and half starved ragged laborers; and views here the happy mediocrity, that so generally prevails thro'out these states—where the cultivator works for himself, and supports his family with decent plenty, will see abundant rea-

*"Kings hate virtuous men who oppose their unjust designs, but caress the wicked who favor them." 2 Burlamaqui 67.[24] Montague 276.[25]

"In monarchies, the actions of men are judged not as *virtuous* but as shining—not as *just* but as great—not as *reasonable* but as extraordinary." 1 Montesquieu 36.[26]

"In monarchies, policy effects great things by as little virtue as possible, if there should chance to be some unlucky, honest man, Cardinal Richlieu, in his political testament, seems to hint, that a prince should take care not to employ him: so true it is that virtue is not the main-spring of this Government." 3 Montesquieu 28, 30.[27]

†"Luxury is absolutely necessary in monarchies; hence arises a very natural reflection—Republics end with luxury, monarchy with poverty." Ibid. 124.[28]

**"There is no great share of probity necessary to the support of monarchical or despotic government; but in a popular state one spring more is necessary, namely virtue: When virtue is banished, ambition invades the hearts of those that are disposed to receive it, and avarice possesses the whole community." 1 Montesquieu, 24, 25.[29]

son to bless Providence, for the evident and great difference in our favor, and be convinced, that no nation, known to us, enjoys a greater share of human felicity."[31]

6.8.19 The good opinion I have of the frame and composition as well of the Confederation as the several state Constitutions; and that they are, if administered upon republican principles, the greatest blessings we enjoy; and the danger I apprehend of the one proposed is, that it will become the greatest curse, and be the means of destroying ours; as the like measures ever have destroyed the liberties of every people that have attempted to do so; has led me into the following discussions; conceiving it not only the duty of a patriot to enquire, like Daniel, *Whose footsteps are these?* but to call out like Paul, *Stand fast in the liberty, be not entangled with the yoke of bondage*.[32] "What? in a quarrel (says Vattal) that is going to decide forever their most valuable interests, and their very safety, are the people to stand by as tranquil spectators? as a flock of sheep is to wait till it be determined, whether they are to be delivered to the butcher or restored to the shepherd's care."[33]

6.8.20 For my own part, I adopt the sentiments of Sidney: "While I live I shall endeavor to preserve my liberty, or at least not consent to the destroying of it: I hope I shall die in the same principle in which I lived, and will no longer live than they can preserve me."[34]

6.8.21 In my discussions on this subject, I do not mean to ascribe every bad consequence, that may appear to flow necessarily from certain measures, to the evil intentions of ALL those that advocate the measure, nor to every member of Congress; for I am well assured, that there have been at all times members in that hon. body, and even among the wealthy, that have disapproved of the measures and acted the worthy patriots, and others, that deserve no more blame, than those who in their innocence accompanied Absalom in his treasonable practices: it being even a hard fate that the burthen of the proof was turned upon them, without an evil intent—And as it will require to point out the reprehensible conduct of the public officers, which will sometimes also apply to their superiors, I shall endeavour to do it with as much delicacy as I am able, consistent with truth—and "truth (says Montague) will never offend the honest and well meaning, for the plain dealing remonstrances of a friend differ as widely from the rancor of an enemy, as the friendly probe of a physician from the dagger of an assassin"—[35] Yet, in sentiment with Hardwhic[h], "that there is a decency required in tracing the faults of past times; we may look for information and warning, and even reproof, but not invective."[36]

6.8.22 Nor shall I attempt to palm my own opinion upon the public (a mode too prevalent now a days) under a cloak that the example of other countries will not apply, because the rulers in America would not be so liable to abuse their power: what I shall advance, I intend to support by the best and most approved authorities, which I mean to follow rather as a compiler than an

author, and that too as much as possible in their own words; for in the words of Montague, "unhappily the resemblance between the manners of those ancient *republics* in the *most degenerate periods* is, in many respects, so striking, that unless the words in the original were produced as vouchers, any well meaning reader, unacquainted with those histories, would be apt to treat the description of those periods, which he may frequently meet with, as licentious and undistinguished satire upon the present time,"[37] therefore all the reader will have to do (tyrants do not read)[38] will be to examine the facts stated and the authorities referred to, and see *whether these things were so*. I hope I shall not be blamed on account of the repetitions, "for it can never be superfluous to repeat again and again those truths of which mankind have not yet profited."[39]

Sidney.

III

(POUGHKEEPSIE) COUNTRY JOURNAL
11 March 1788

"As tyranny that governs by the sword, has few friends but men of the sword, but legal tyranny (where the people are only called to confirm iniquity with their own voices) has on its side, the rich, the timid, the lazy, those that know the law and get by it, ambitious Churchmen, and all those whose livelihood depend upon the great pleasure of affairs." 3 Burg 5.[40]

6.8.23 After this introduction, I shall go on to the first part, and enquire whether the adoption of the proposed Constitution is either necessary or proper.

It is asserted that this dangerous step is become unavoidable in the present situation of things, for want of the necessary powers in Congress.—"The friends of our country (say the Convention) have long seen and desired, that the power of making war, peace and treaties—that of *levying money* and regulating *commerce*, and the correspondent *executive* and *judicial* authorities should be fully and effectually vested in the general government of the Union: but the impropriety of delegating such extensive trust to one body of men is evident. Hence results the necessity of a different organization."[41]

6.8.24 The defects and their consequences are more particularly enumerated in a certain celebrated oration, where the orator describes Congress, as a "nerveless council, united by imaginary ties, brooding over ideal decrees, which caprice or fancy is at pleasure to annul or execute—(then observes) I see trade languish, *public credit* expire, and that *glory*, which is not less necessary to the prosperity of a nation, than *reputation* is to individuals, a

victim of opprobrium and disgrace." Those in this State, he supposes "occasioned by the negligence of the people, who, after violent agitation, have sunk into such a state of torpor and indifference with respect to government, as to be careless into what hands they trust their dearest rights, as if experience, application, genius and education, are unnecessary to those, who are to frame laws for the government of the States."[42]

I shall consider these articles separately, and first the situation of *trade*, then that of *glory* and *credit* and lastly the *indifference* of the people.

6.8.25 It is astonishing to find how much the public have been imposed upon respecting trade: If the reader will take the trouble of turning up the Journals of Congress, of the 3d March and 23d October, 1786, he will find that Congress, if not already vested with full power to regulate trade, might long since have had such power, according to their wishes.[43] The history of which is, that the measures of Britain, soon after the peace, in respect to her commerce, alarmed the merchants, and made Congress apprehensive that their powers were not sufficient to command reciprocal advantages in trade, they therefore called upon the States, the 30th of April, 1784, to be invested with additional powers for the term of fifteen years: but, either from the novelty of the matter, or the resolution of Congress not being sufficiently explicit; Congress judged it expedient on the 3d of March, 1786, to explain the resolutions made on that subject, and to urge a compliance. On the 23d of October following, the committee to whom this business was referred, in their report observe, "That from a review of the acts, passed by the several States, in consequence of the said recommendation, it appears that, though in order to make the duration of the powers equal, it will be necessary, for the States of Connecticut, Pennsylvania, Maryland and South Carolina, so far to amend their acts, as to permit the authorities therein granted, to commence their operation at the time Congress shall begin to exercise them—yet, the powers granted by them and by the States of Massachusetts, Rhode Island, New York, New Jersey, Delaware, Virginia and Georgia, are otherwise in such compliance with the recommendations, that if the States of New Hampshire and North Carolina had conformed their acts to the said resolution, agreeable to the urgent recommendation of Congress, of the 3d of March last, the powers therein required might immediately begin to operate; the committee however are of opinion, that the acts of the States of New-Hampshire and North-Carolina, manifest too liberal a disposition, to grant the necessary powers upon the subject, that their not having complied with the recommendation of March last, must be attributed to other reasons than a disinclination in them to adopt measures similar to their sister States."

6.8.26 As trade seems to have been reserved, as a pretence to get Congress invested, first with an independent revenue, and since with legislative and judicial powers—I beg leave here to call the readers particular attention: whether (if Congress are not already vested with this power) it stands on

such a footing, as to dispair of the two legislatures agreeing to it: and whether this ought to induce us to discard a good government, and adopt another so full of the seeds of tyranny.

6.8.27 As to the other part respecting *glory & public credit,* I will readily admit that *reputation;* that is, to be considered a man of *truth, honesty* and *œconomy,* is necessary to an *individual,* and to *virtue, righteousness* and *truth;* to the *prosperity, exaltation* and *glory* of a republic.

6.8.28 But if by this *glory* and *public credit,* is meant, that we are like to loose the benefit of obtaining *new loans of money,* abroad?—I differ so widely, that I am confident, it would have been a happy circumstance, to the Federal Union; if that sort of *glory* and *credit,* had expired the 30th November, 1782, when the provisional treaty was signed: because, then less money would have been taken up in Europe, and less money squandered in America. Besides, I am apprehensive, unless the power of taking up loans in Europe is restricted, that not a dollar of the principal (if the interest) of the foreign debt, will ever be paid; for if Congress, or as it is called, *the nerveless council etc.* with no other resources, but those obtained by loans abroad, or by requisitions at home, have been enabled with their servants to manage matters, as to be now in the exercise of *levying armies* in time of profound peace, establishing *governments,* granting *pensions* and *sinecures,* and imposing *oaths of secrecy* on all their officers—who, among other things, swear, "that I will not disclose or reveal any thing that shall come to my knowledge in the execution of the said office, or from the confidence I may thereby acquire which in my judgement or by the injunction of my superiors ought to be kept a secret."[44] I say, if those abuses have been committed under the present powers and resources, would not greater powers and more resources, have enabled them to have committed still greater abuses—to have involved the country in still greater confusion? and rendered it a still greater victim of opprobrium and disgrace? Indeed it may be a very serious question, what would have been our situation, if Congress in 1781, had been invested with the power of levying the impost of five per cent etc. and, that it was not intended to stop here, will appear from the letter of the Financier, of the 27th of September, 1782.[45]

6.8.29 "The requisition (he says) of a five per cent impost made on the 3d February, 1781, had not yet been complied with by the State of Rhode Island; but as there is reason to believe that their compliance is not far off, this revenue may be considered as being *already granted.* It will however be very inadequate for the purposes intended.* If goods be imported and the

*About the same time, he was advising Doctor Franklin, that the sum of three million livres understood to be granted as a donation, should be acknowledged as a debt, and included in the obligation given to the court of France, for money borrowed, and assigned as a reason that this country ought not to lay under any obligation to any foreign power for money given.[46]

prizes introduced to the amount of 12,000,000 dollars annually, the five per cent would be 600,000 dollars, from which, at least one sixth part must be deducted, as well for the cost of collection, as for the various defalcations, which will necessarily happen and which it is unnecessary to insinuate. It is not safe therefore to estimate this revenue at more than half a million; for though it may produce more, yet probably it may not so much.

"It was in consequence of this, that on the 27th of February last, I took the liberty to submit the propriety of asking the States for a land tax of one dollar for every hundred acres of land, and a poll-tax of one dollar on all free men and all male slaves between sixteen and sixty (excepting such as are in the federal army, and such as are by wounds or otherwise rendered unfit for service) and an excise of one eighth of a dollar per gallon upon all distilled spiritous liquors."

In regard to the last, to wit, the *torper* and *indifference* of the people with respect to government. 6.8.30

This remark has no reference to the confederation, but is entirely confined to the people of the States; if not those of the State of New York only, and is not even mentioned as a fault in the constitution: for the gentleman observes, "*all the ends of government are answered so far as they depend upon the constitution.*" But his complaint is of the indifference of the people, "*that not one in ten tenders his vote etc.*"[47]

I will admit, that when it is left to the people to chose whom they please, and especially when there is no great opposition, they are too indifferent, and too few go to the poll to tender their votes; while at other times, when there is opposition, measures are taken, which in strictness are not justifiable—and I will also admit there are some who are led by whim and caprice to prefer one candidate before another. "Distinctions raised by vanity among families (says Montesquieu) under pretence that they are more *noble* or *antient;* pretentions of this nature ought to be ranked among the weaknesses of private persons."[48] 6.8.31

It is notwithstanding in civil, as it is in religious transactions, people generally choose men (like those shepherds of old, who fed their flock instead of themselves) who they suppose will serve them best, so did Paul, when he sent Timothy to the Philippians; for, after reprobating their strife and vain glory, he tells them "you are not to look every one on his *own things,* but every man also on the things of others. I therefore send you Timothy, for I have no one like minded, who will naturally care for your state, for all seek their own."[49] 6.8.32

Bacon has the same sentiment clothed in another dress, and represents it as being wise in the *general* and being wise for ones self, the one (he says) seems to move as from the *centre* to the *circumference* and the other from the *circumference* to the *centre*.[50]

Sidney.

IV
13 March 1788

"The liberal and humane philosopher, the honest benevolence of whose heart, is not corrupted by the crooked politics of princes and their ministers, will feel it overflow with compassion, on surveying the miserable lot of mankind, who are the restless victims of the ambition and rapacity of a few, by whose iniquitous perversion, the beneficent intention of providence to promote virtue and happiness, is in many instances rendered subservient to the encouragement of vice, and the production of misery.—But, what indignation must arise in his bosom, when he hears that these oppressors consider it as a favor, that they allow their fellow creatures to be plundered by none except themselves, and call on them to be grateful for that protection; in return for which, above half of their substance is extorted from them." Preface to Abbe D'Mabley.[51]

6.8.33 Having pointed out the danger, and shewn, that it is neither necessary or proper to adopt the new Constitution, I shall now proceed to enquire, by way of contrast, whether Americans have any good reason, to put more confidence in their rulers, than Europeans. I do not mean to insinuate, that *every* iniquity which occasioned the ruin of other states is practiced among us; or, that Americans would be worse than others. "Men in general, have ever been agitated by the same kind of restless spirit and tumultuous passions. They have been guilty of the same vices and follies, and liable to the same calamities, from their first original to this day";[52] and as Montague observes, "as the same causes will, by stated laws of sublunary affairs, sooner or later, invariably produce the same effects; so whenever we see the same maxims of government prevail, the same measures pursued, and the same coincidences of circumstances happen in our country, which brought on, and attended the subversion of those states, we may plainly read our own fate in their catastrophe; unless we apply speedy and effectual remedies before our case is past recovery—it is the best way to learn wisdom, in time, from the fate of others; and if examples will not instruct and make us wiser, I confess myself utterly at a loss to know what will."[53]

6.8.34 But, although *all* the same causes which contributed to the ruin of other states, do not operate among us, still such do, as perhaps never entered the list of contrivances before, and probably as destructive, as that of the priests of Bell and the Dragon, the South sea and Mississippi Bubbles (it is true the South sea Bubble was voted in the house of Lords—"a villanous artifice; and that the directors, so far as their estates would [ ], should make good the losses the company had sustained by their fraudulent management,")[54] for, although their measures were founded in fraud and inquity. they had not in view to overset the government.

I suppose, therefore, that it will cast light upon the subject, to look back into the history of former times; where it will be found, that ever since the days of Pharaoh, it has been a principle with tyrants and usurpers, when they conceive themselves in danger of losing, or mean to usurp a power; to distress, distract, and impoverish the people: for (says Montesquieu) "a man poor and impoverished, is in the condition of a man weakened by sickness, who is without passions, because he is without strength."[55] 6.8.35

In the prosecution whereof, they generally have the rich and overbearing usurpers (perhaps not always with that design) to play into their hands: for in times of distress and calamity, although their objects, like that of the heads of the foxes of Sampson, are in different directions; the concentrating of their tails admit of a motion to obtain the object each had in view; and to such a length was it carried among the children of Israel, and so at Athens, that they were permitted, after all their oppression and extortion, when they had got the spoil of the poor into their possession, to sell the insolvent! Nehemiah redressed the one, Solon the other.[56] 6.8.36

This, however, effects liberty and property only; but, when a crown is the object, life is equally precarious—Cesar resolving "to rule and lord it over all the rest, at any rate, had the verses of Euripides, continually in his mouth, which insinuate, that if the greatest crimes were to be committed, it was when a crown was the motive."[57] This is also verified in the histories of Abimelech, Jerubaal, Jehu, Ahab, Atheliah, Artaxerxes and Alexander. 6.8.37

It is remarked, that several of the princes of Orange, as well as the earl of Leicester, and the duke of Anjou, have at certain times suffered the enemy to lay waste* the country in order to induce a belief in the inhabitants, that it would be best to invest them with absolute power: and almost upon every reverse of fortune they complained, that their powers [ ] sufficient to protect the people. 6.8.38

Against the operation of these dreadful practices the parliamentary power in England, has ever been proof, which has been the occasion of one continued struggle. The kings, on the one hand, from time to time, have bent their whole strength, either in force or fraud, to enervate this parliamentary check; the parliament, on the other; have been, from time to time exceedingly tenacious to guard against these inlets of violence and corruption; and, have embraced every opportunity to recover, or re-establish the rights of the people. The parliament in the reign of Edward the third supposed, that 6.8.39

*Such was the case in the dispute between the government and the assembly of Pennsylvania in the beginning of the late French war: whether Penn's estate, should be taxed in common with others, was the question? The assembly passed a tax bill, to raise money for an army, to defend the frontiers: the governor refused to give his assent, unless the estate of Mr. Penn was exempted from paying taxes (while the frontiers were laid waste by the Indians) until the earl of London his superior in 1756 ordered him to pass the bill, else it was apprehended that the legislature would have been obliged (like the mother before Solomon) to give up their right, to save the country from destruction.

the statute then made, would, have effectually prevented the evils they apprehended; but they found their mistake: he pursued the scene of fraud and corruption, the remainder of his reign whilst, he confirmed MAGNA CHARTA not less than ten times, nor was there ever a law made, or an oath framed, sufficient to prevent it.

6.8.40 In the reign of Charles the second the people were relieved, and a stop was put to an evil that had been of an old standing, and exceeding dangerous: "The king might at his pleasure, encrease the number of members in both houses of parliament, by creating more barons, and bestowing the privilege upon any other towns to send members."[58]

This relief however was not extended to America, for in the reign of James the second, this prerogative was exercised in the colonies; and the privilege annexed not only to towns, and boroughs, but to patents for large tracts of land, some erected into manors, the extent of whose mischief has already been felt on several occasions and their bad tendency will probably be experienced with additional force at present.

Sidney.

1. This essay, which first appeared in a now lost issue of the *Albany Gazette*, is an extended version of an essay by Sidney published in the *New York Journal* (Extraordinary) on 18 October 1787.

2. Edward Wortley Montagu, *Reflections on the Rise and Fall of the Ancient Republics Adapted to the Present State of Great Britain* IX, "Of Revolutions in Mixed Governments."

Instead of this Montagu quotation, Sidney began the earlier *New York Journal* version with a characteristic quotation from James Burgh, *Political Disquisitions* I, bk. 3, ch. 5. "To take the character of man, from history, he is a creature capable of any thing, the most infernally cruel and horrid when actuated by interest, or what is more powerful than interest, passion, and not in immediate fear of punishment from his fellow creatures; for, damnation out of sight, who would trust such a mischievous monkey with superfluous power?

"*Simia quam similis turpissimi bestia nobis?* Ovid.

"The love of power is natural; it is insatiable; it is whetted, not cloyed, by possession. All men possessed of power may be expected to endeavour to prolong it beyond the due time, and to increase it beyond the due bounds; neither of which can be attempted without danger to liberty. Yet we find that men in all ages, and nations have shewn an astonishing credulity, in their faithless fellow-creatures; they have hoped against hope; they have believed against the sight of their own eyes."

3. *Journals of the Continental Congress, 1774–1789* XIX, 110–13; XXIV, 256–62.

4. Francis Bacon, *Essays or Counsels, Civil and Moral* XXIV, "Of Innovations."

5. Montagu, *Reflections* ch. 9.

6. Beccaria, *Essay on Crimes and Punishments*, "Of Family Spirit."

7. *The Spirit of Laws* VIII, ch. 16.

8. Emmanuel Bowen, *A Complete System of Geography* (London 1747) I, 547.

9. William Guthrie, *A Geographical, Historical, and Commercial Grammar, Exhibiting the Present State of the World* pt. 2, "Europe; Holland."

10. Farrand II, 666. On the confusion of names see Martin 2.4.43 n. 12.

11. See *The Resolutions of Congress of the 18th of April 1783: Recommending the States to Invest Congress with the Power to Levy an Impost, for the Use of the States; and the Laws of the Respective States, Passed in Pursuance of the Said Recommendation* (New York 1787) (Evans, *Early American Imprints* no. 20783).

12. See references in Federal Republican 3.6.5 n. 4; on the framers, see Centinel I, 2.7.5 n. 2.
13. Oliver Goldsmith, *The History of England* ch. 38, "William III."
14. The source of this quotation has not been found.
15. Joseph Addison, Richard Steele, et al., *The Spectator* no. 507, 11 October 1712; no. 287, 29 January 1712.
16. This reference has not been located.
17. John DeWitt et al., *The True Interest and Political Maxims of the Republick of Holland and West-Friedland* (London 1702) 7–8, 485–86.
18. The first quotation is from Sallust's *Fragments* (See "Fragments of the History of Sallust," *Sallust, Florus, and Velleius Paterculus* [trans. John Selby Watson, London 1852] 216–49). I have not found the second.
19. *Letters of Brutus* [Marcus Junius Brutus] I, 17.
20. The source of this quotation has not been found.
21. Beccaria, *Essay on Crimes and Punishments,* "Proportion between Crimes and Punishments."
22. Charles Rollin, *The Ancient History of the Egyptians, Carthaginians, Assyrians, Babylonians, Medes and Persians, Grecians and Macedonians* X, ch. 1.
23. *The Spirit of Laws* V, ch. 14.
24. Jean Jacques Burlamaqui, *The Principles of Natural and Political Law* II, ch. 2, sec. 5 (quoting Herodotus).
25. Montagu, *Reflections* V.
26. *The Spirit of Laws* IV, ch. 2. "Shining" is incorrectly printed here as "thinking."
27. Ibid. III, ch. 5. [Sidney omitted a passage between "as possible" and "if there."—M.D.]
28. Ibid. VII, ch. 4. [Sidney omitted a passage between "monarchies" and "hence."—M.D.]
29. Ibid. III, ch. 3. [Sidney omitted passages between "government" and "but in" and between "namely virtue" and "When virtue."—M.D.]
30. The quotation is from a speech in the House of Lords on a motion to withdraw troops from Boston, 20 January 1775, reprinted in "Old South Leaflet, No. 199; Lord Chatham's Speeches on the American Revolution," *Old South Leaflets* VIII (Boston).
31. "The Internal state of America," 1799, *The Writings of Benjamin Franklin,* ed. Albert H. Smyth (1907) X, 120.
32. Galatians 5:1.
33. Emmerich Vattel, *The Law of Nations or the Principles of Natural Law* I, ch. 5, sec. 66.
34. See George Wilson Meadley, *Memoirs of Algernon Sidney* (London 1813) 76–83.
35. Montagu, *Reflections,* "Introduction."
36. The source of this quotation has not been found.
37. Montagu, *Reflections,* "Preface."
38. Beccaria, *Essay on Crimes and Punishments,* "Of the Interpretation of Laws."
39. The source of this quotation has not been found.
40. James Burgh, *Political Disquisitions* III, bk. 1, ch. 1, "Importance of Manners in a State."
41. Farrand II, 666.
42. The source of this quotation has not been found.
43. *Journals of the Continental Congress, 1774–1789,* XXX, 93–94 (3 March 1786); XXXI, 907–9 (23 October 1786). See Sidney's earlier discussion of the power of Congress to regulate trade in the *New York Journal,* 13 September 1787.
44. See *Journals of the Continental Congress* VII, 193–94, 242.
45. *The Diplomatic Correspondence of the American Revolution,* ed. Jared Sparks XII, 226.
46. Ibid. 201.
47. The source of this quotation has not been found.

48. *The Spirit of Laws* V, ch. 8.
49. Philippians 2:19–21.
50. Francis Bacon, *Essays or Counsels, Civil and Moral* XXIII, "Of Wisdom for a Man's Self."
51. *Observations on the Government and Laws of the United States of America,* Translated from the French of the Abbé de Mably, with a preface by the translator (Amsterdam 1784), "The translator's preface."
52. See Montesquieu, *Considerations on the Greatness of the Romans and Their Decline,* X.
53. Montagu, *Reflections,* "Introduction."
54. See *The History and Proceedings of the House of Lords* (London 1742) III, 132–33; Anno 7 Georgii II. Cap I (p. 299) and Anno 7 Georgii I. Cap XXVIII (p. 354).
55. *The Spirit of Laws* XIX, ch. 27.
56. These references have not been located.
57. The source of this quotation has not been found.
58. The source of this quotation has not been found.

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This address, which appeared in the *New York Journal and Daily Patriotic Register* on 13 and 14 June 1788, compares, in an extremely loose way, the proposed Constitution with the constitution of New York. Describing a long-standing plot to subvert the Confederation, "Sydney" contends that the new Constitution "does not originate from a pure source" (6.9.2). He attempts to justify the absence of a bill of rights from the New York constitution, frequently pointed to by Federalists as precedent (6.9.4). His general argument is that the states are considered mere dependencies under the new Constitution (6.9.5). In the course of the discussion he takes up the subjects of regulation of Indian affairs (6.9.9), the wide powers of the proposed legislature (6.9.12–13), the regulation of elections (6.9.17–23), the trial by jury (6.9.23), the executive powers (6.9.24–27), the judiciary (6.9.28), religious guarantees (6.9.29), and naturalization (6.9.30). He seeks to show that some provisions of the New York constitution are rendered nugatory, some are enervated, and some are left to depend on the discretion of the general government. The distinctions are not clearly drawn, and the argument is frequently lost in obscurity.

According to Paul L. Ford, who reprints this essay, Sydney was "a favorite pseudonym of Robert Yates and was so well known as his pen name by his contemporaries that it was hardly intended as a mask." He had, Ford remarks, already contributed the very able series of letters under "Brutus" (see above, 2.9), written to influence the people; Sydney, written after the elections, was meant to influence the convention. "A year later, when Yates was nominated for governor by the Federalists, quotation from these articles was one of the favorite modes of attacking him used by the anti-federalists."[1] If the author is indeed Robert Yates, it was a far poorer or hastier Yates than the author of the Brutus series. This lends strength to Linda Grant De Pauw's contention, which seems sound, that it is fairly clear that *Abraham* Yates was the author.[2]

1. Ford, *Essays* 295. I have not found any such criticisms.
2. De Pauw, *The Eleventh Pillar* 131 n. 45.

To the Citizens of the State of New York.

6.9.1 Although a variety of objections to the proposed new constitution for the government of the United States have been laid before the public by men of the best abilities, I am led to believe that representing it in a point of view which has escaped their observation may be of use, that is, by comparing it with the constitution of the State of New York.

The following contrast is therefore submitted to the public, to show in what instances the powers of the state government will be either totally or partially absorbed, and enable us to determine whether the remaining powers will, from those kind of pillars, be capable of supporting the mutilated fabric of a government, which even the advocates for the new constitution admit excels "the boasted models of Greece or Rome, and those of all other nations, in having precisely marked out the power of the government and the rights of the people."[1]

6.9.2 It may be proper to premise that the pressure of necessity and distress (and not corruption) had a principal tendency to induce the adoption of the state constitutions and the existing confederation, that power was even then vested in the rulers with the greatest caution, and that, as from every circumstance we have reason to infer that the new constitution does not originate from a pure source, we ought deliberately to trace the extent and tendency of the trust we are about to repose, under the conviction that a re-assumption of that trust will at least be difficult, if not impracticable. If we take a retrospective view of the measures of Congress who have their secret journals, the conduct of their officers, at home and abroad, acting under an oath of secrecy, as well as of individuals who were intimately connected with them, from the year 1780 to the last convention, who also acted under an injunction of secrecy (and whose journals have not been published even to this day, but will no doubt continue buried in the dark womb of suspicious secrecy), we can scarcely entertain a doubt but that a plan has long since been framed to subvert the confederation; that that plan has been matured with the most persevering industry and unremitted attention, and that the objects expressed in the preamble to the constitution, that is "to promote the general welfare and secure the blessings of liberty to ourselves and our posterity," were merely the ostensible, and not the real reasons of its framers. That necessity and danger have been the moving causes to the establishment of the confederation will appear from the words of Congress recommending its formation to the several legislatures which are "under a conviction of the absolute necessity of uniting all our councils and all our strength to maintain our common liberties. Let them be examined with liberality becoming brethren and fellow-citizens, surrounded by the same iminent dangers, contending for the same illustrious prize, and deeply interested in being forever bound and connected together by the ties the most intimate and indissoluble."[2]

That these principles equally applied to the formation of our state constitution no person can seriously doubt who recollects the rapid progress of the British troops in this state and in Jersey in the year 1776, and the despondence which prevailed among the people on that occasion. The convention of this state, about that period, in explaining to the people the justice of the American cause, addressed them as follows: "You and all men were created free and authorised to establish civil government for the preservation of our rights against civil oppression, and the security of that freedom which God had given you, against the rapacious hand of tyranny and lawless power. If then God hath given us freedom, are we not responsible to him for that as well as other talents? If it is our birth-right, let us not sell it for a mess of pottage, nor suffer it to be torn from us by the hand of violence."[3] 6.9.3

The omission of a bill of rights in this State has given occasion to an inference that the omission was equally warrantable in the constitution for the United States. On this it may be necessary to observe that while the constitution of this State was in agitation, there appeared doubts upon the propriety of the measure, from the peculiar situation in which the country then was; our connection with Britain dissolved, and her government formally renounced—no substitute devised—all the powers of government avowedly temporary, and solely calculated for defence; it was urged by those in favor of a bill of rights that the power of the rulers ought to be circumscribed, the better to protect the people at large from the oppression and usurpation of their rulers. The English petition of rights, in the reign of Charles the First, and the bill of rights in the reign of king William, were mentioned as examples to support their opinions. Those in opposition admitted that in established governments, which had an implied constitution, a declaration of rights might be necessary to prevent the usurpation of ambitious men, but that was not our situation, for upon the declaration of independence it had become necessary that the exercise of every kind of authority "under the former government should be totally suppressed, and all the power of government exerted under the authority of the people of the colonies"; that we could not suppose that we had an existing constitution or form of government, express or implied, and therefore our situation resembled a people in a state of nature, who are preparing "to institute a government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness," and as such, the constitution to be formed would operate as a bill of rights.[4] 6.9.4

These and the like considerations operated to induce the convention of New York to dismiss the idea of a bill of rights, and the more especially as the legislative state officers being elected by the people at short periods, and thereby rendered from time to time liable to be displaced in case of misconduct. But these reasons will not apply to the general government, be- 6.9.5

cause it will appear in the sequel that the state governments are considered in it as mere dependencies, existing solely by its toleration, and possessing powers of which they may be deprived whenever the general government is disposed so to do. If then the powers of the state governments are to be totally absorbed, in which all agree, and only differ as to the mode, whether it will be effected by a rapid progression, or by as certain, but slower, operations: what is to limit the oppression of the general government? Where are the rights, which are declared to be incapable of violation? And what security have people against the wanton oppression of unprincipled governors? No constitutional redress is pointed out, and no express declaration is contained in it, to limit the boundaries of their rulers; beside which the mode and period of their being elected tends to take away their responsibility to the people over whom they may, by the power of the purse and the sword, domineer at discretion; nor is there a power on earth to tell them, What does thou? or, Why dost thou so?

6.9.6 I shall now proceed to compare the constitution of the state of New York with the proposed federal government, distinguishing the paragraphs in the former, which are rendered nugatory by the latter; those which are in a great measure enervated, and such as are in the discretion of the general government to permit or not.[5]

The 1st and 37th paragraphs of the constitution of the state of New York.

The 1st "Ordains, determines, and declares that no authority shall on any pretence whatever be exercised over the people or members of this State, but such as shall be derived from and granted by them."

The 37th, "That no purchases or contracts for the sale of lands [. . .] with or of the Indians within the limits of this state, shall be binding on the Indians, or deemed valid, unless made under the authority and with the consent of the legislature of this state."

6.9.7 I beg here to observe that the whole history of this spurious constitution for the government of the United States, from its origin to the present day, and the measures taken by Congress respecting the Indian affairs in this state, are a series of violations of these paragraphs, and of the 13th article of the confederation.[6]

It was a violation of the state constitution for the senate and assembly, on the 19th of February, 1787, to instruct their members to move in Congress for an act recommending a convention; and it was also a violation of the 13th article of the confederation for Congress, on the 21st day of February, to recommend a convention to the several legislatures. It was a further violation of the constitution of this state, by the senate and assembly, on the 27th day of March, to join and to appoint delegates to meet in convention, and it being done in that hasty, if not surreptitious manner, by joint resolutions, when acts of the least consequence, even for the yoking of hogs, require to be passed under the formalities of a law, makes it more glaringly so.

It was an outrageous violation in the convention on the 17th of September, 1787, to attempt a consolidation of the union, and utterly destroy the confederation and the sovereignty of particular states, when their powers were restricted "to the sole and express purpose of revising and amending the confederation." 6.9.8

It was again an infringement of the 13th article in the confederation, for Congress, on the 28th of September, not to arrest and prevent its being transmitted to the several legislatures; nor was the legislature of this state less culpable, in the beginning of February, 1788, who, in the course of three hours, took up and concluded the measure of calling a convention without apprising their constituents of the danger.

It is notorious that the right of regulating Indian affairs, especially with the five nations, has been in the colony of New York since the year 1664, and before that period, from the year 1614, whilst it was called New Nederland under the Dutch. That by the confederation, although Congress are invested with the power of regulating the trade and managing all affairs with the Indians, that they are restricted to those Indians "not members of any of the states, and a special proviso that the legislative rights of any state within its own limits be not infringed or violated."[7] It therefore was a violation of the confederation and of the rights of the state for the congressional commissioners of Indian affairs to treat, at fort Stanwix, with and thereat to make a purchase from the five nations without the authority or consent of the legislature of this state. It was an infraction of the rights of the citizens of this state, and an insult on their government, for those commissioners to wrest private property from individuals, imprison their persons, set at defiance the civil authority of the county of Montgomery, and violently to resist the execution of legal process. Nor was the ordinance of the 7th of August, 1786, for the regulation of Indian affairs, less so, namely, that "the Indian department be divided into two districts, viz.: the southern, which shall comprehend within its limits all the nations in the territory of the United States, who reside to the southward of the Ohio; and the northern, which shall comprehend all the nations within the said territory, and westward, not of lake Ontario, but of Hudson's river; that a superintendent for the northern districts shall have authority to appoint two deputies to reside in such places as shall best facilitate the regulation of the Indian trade; that no person, citizen or other, under the penalty of five hundred dollars, shall reside among or trade with any Indian or Indian nations within the territory of the United States, without a licence for that purpose first obtained from the superintendent of the district, or of one of the deputies, who is hereby directed to give such licence to every person who shall produce from the supreme executive of any state a certificate under the seal of the state, that he is of good character and suitably qualified and provided for that employment, for which licence he shall pay for one year the sum of fifty dollars to 6.9.9

the said superintendent for the use of the United States."[8] If this was the conduct of Congress and their officers, when possessed of powers which were declared by them to be insufficient for the purposes of government, what have we reasonably to expect will be their conduct when possessed of the powers "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes," when they are armed with legislative, executive and judicial powers, and their laws the supreme laws of the land—and when the states are prohibited, without the consent of Congress, to lay any "imposts or duties on imports," and if they do they shall be for the use of the treasury of the United States—and all such laws subject to the revision and controul of Congress.

6.9.10 It is therefore evident that this state, by adopting the new government, will enervate their legislative rights, and totally surrender into the hands of Congress the management and regulation of the Indian trade to an improper government, and the traders to be fleeced by iniquitous impositions, operating at one and the same time as a monopoly and a poll-tax. The deputy by the above ordinance, has a right to exact yearly fifty dollars from every trader, which Congress may increase to any amount, and give it all the operation of a monopoly; fifty dollars on a cargo of 10,000 dollars' value will be inconsiderable, on a cargo of 1000 dollars burthensome, but on a cargo of 100 dollars will be intolerable, and amount to a total prohibition, as to small adventurers.

II, III, IX, XII, and XXXI.

6.9.11 The second paragraph provides "that the supreme legislative power within this state shall be vested in two separate and distinct bodies of men, the one to be called the assembly, and the other to be called the senate of the state of New York, who together shall form the legislature."

The ninth provides "that the assembly shall be the judge of their own members, and enjoy the same privileges, and proceed in doing business in like manner as the assembly of the colony of New York of right formerly did."

The twelfth paragraph provides "that the senate shall, in like manner, be judges of their own members," etc.

The 31st describes even the stile of laws—that the stile of all laws shall be as follows: "Be it enacted by the people of the state of New York represented in senate and assembly," and that all writs and proceedings shall run in the name of the people of the state of New York, and tested in the name of the chancellor or the chief judge from whence they shall issue.

The third provides against laws that may be hastily and inadvertently passed, inconsistent with the spirit of the constitution and the public good, and that "the governor, the chancellor and judges of the supreme court, shall revise all bills about to be passed into laws, by the legislature."

The powers vested in the legislature of this state by these paragraphs will be weakened, for the proposed new government declares that "all legislative powers therein granted shall be vested in a congress of the United States, which shall consist of a senate and a house of representatives," and it further prescribes, that "this constitution and the laws of the United States, which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding; and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution." 6.9.12

Those who are full of faith, suppose that the words in pursuance thereof are restrictive, but if they reflect a moment and take into consideration the comprehensive expressions of the instrument, they will find that their restrictive construction is unavailing, and this is evinced by 1st art., 8 sect., where this government has a power "to lay and collect all taxes, duties, imposts and excises, to pay the debts, and provide for the common defence and general welfare of the United States," and also "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this constitution in the government of the United States, or in any department or office thereof." 6.9.13

Art 1st, sect. 7, provides a qualified negative, that is, that "every bill which shall be passed [by] the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States."

To conclude my observations on this head, it appears to me as impossible that these powers in the state constitution and those in the general government can exist and operate together, as it would be for a man to serve two masters whose interests clash, and secure the approbation of both. Can there at the same time and place be and operate two supreme legislatures, executives, and judicials? Will a "guarantee of a republican form of government to every state in the union" be of any avail, or secure the establishment and retention of state rights? 6.9.14

If this guarantee had remained, as it was first reported by the committee of the whole house, to wit, . . . "that a republican constitution, and its existing laws, ought to be guaranteed to each state by the United States," it would have been substantial; but the changing the word *constitution* into the word *form* bears no favorable appearance.[9] 6.9.15

IV, V, XII, XVI.

The fourth provides, "that the assembly of the state of New York shall consist of at least seventy members, to be annually chosen in the several 6.9.16

counties in certain proportions." The 5th, 12th and 16th, declare that a census shall be taken every seven years, to regulate the augmentation of the number seventy, so as not to exceed three hundred. Here seventy members are divided among the several counties, and consequently into at least as many poles and sets of members to be annually chosen. If this is contrasted with the constitution for the federal government—the constitutional assembly or house of representatives will be found to consist of sixty-five members divided among thirteen states, to be chosen every second year. Six for the state of New York; not distributed among the counties, but by all the counties. And, although "the times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof," yet, as it provides that "Congress may at any time by law, make or alter those regulations, except as to places of chusing senators"—the power in the state government to prescribe rules in those cases will be superseded by the executive of the general government, perhaps to the great inconvenience of the people.

FROM THE VITH TO THE XIITH.

6.9.17 The sixth paragraph recites that "an opinion hath long prevailed among divers of the good people of this state that the voting at the election by ballot would tend more to preserve the liberty and equal freedom of the people than voting viva voce; to the end, therefore, that a fair experiment be made which of these two methods of voting is to be preferred, it declares that after the war elections shall be by ballot.

The seventh and eighth regulate the freeholds, and what property shall entitle a man to vote; the ninth, the mode of conducting business in the assembly, and their privileges; the tenth, eleventh, and twelfth, the number of the senate, and how and by whom they shall be elected.

As these clauses regulate the mode of elections and qualifications of the voters of senate and assembly, a relation of what gave rise to the provisions for voting by ballot and that of the value of the freehold, will help to unravel what otherwise may appear mysterious.

6.9.18 In respect to the first it may be necessary to observe that under the colonial government there existed violent parties, not known by the name of whig or tory—republicans and aristocrats. Those who were in the employments of government, or the *ins*, were for extending the prerogative of the crown, while the *outs* were checks to it. Many of the leaders on both sides were under strong expectations that sooner or later that branch of colonial government called the king's council would be erected into a hereditary house of lords. The *ins* being nearest to the disposition of the offices of honor and profit, and in the way of obtaining patents for vacant lands, and being from time to time joined by other crown officers and dependents, who flocked to and settled in this colony since the year 1763, had

the means of making use of undue influence to retain their situations, which made the *outs* at last dispair of ever having a turn, unless the elections were by ballot. This opinion was propagated in every part of the colony before and at the time of the revolution, and so strongly did it operate upon the committee that were ordered to consider of and report the constitution, that at one time they had the whole system interwoven in the draft; but either because it would have made it too lengthy, or that one of the parties were then reduced, and not likely to rise again into importance, about the time the draft was reported, it was struck out and was left by the constitution to the legislature to decide, as experience on the exercise of both principles should suggest.

Sydney.

To the Citizens of the State of New York.

(Concluded from yesterday's paper.)

6.9.19 As to the value of the freeholds, there has been great diversity of opinions, for notwithstanding all agreed that the rights and liberties of a country were ever in danger from the rich and poor, and their safety in the middle sort or yeomanry of the country, still the difficulty occurred in establishing the mean.

6.9.20 While the convention, in 1776, was setting at Harlem, the outlines of a constitution were handed about, to try, it was supposed, the temper of the members, in which it was proposed to have a governor, lieutenant governor, senate, and assembly; the qualification of the governor, lieutenant governor, and senate, to be that each should possess real estate to the value of 10,000 pounds, and to be elected by freeholders possessing freeholds to the value of 1,000 pounds. Although this was not attended with bad effects, yet the qualifications of the electors gave rise to various arguments, and, among others, that as taxation and representation ought to go together, so the right of electing shall be in proportion to the value of each man's estate. To exemplify this, a man of £100 estate had one vote; a man of £1000 should have ten, and a man of ten thousand pounds a hundred, and so on in the same ratio. Others on the contrary supposed that there ought to be no other criterion than the age of twenty-one, a citizen born and resident in this country; out of the two extremes was produced the present system of election and qualification, both admitted to be as secure and consistent rights as any that have been contrived.

6.9.21 It is apprehended, from the duplicity in the wording of 1st art., 4th sec., that seemingly to leave in the power of the respective legislatures to regulate the elections, and still, that Congress may at any time by law make or alter

such regulations; and the undesigned wording of the sixth article, that the constitution and laws of the United States which shall be made in pursuance thereof shall be the law of the land, anything in the constitution or laws of any State to the contrary notwithstanding, will render the whole system ineffectual, if not nugatory, and a new system as destructive to the liberties of the citizens as that of the ratio of voices to the ratio of property introduced. Besides being liable to have the whole State erected into one district, and consequently may give rise to the inconveniences I mentioned before.

VII, SEC. 6; VIII, SEC. 6; IX, SEC. 6; X, SECTION 6; XI, SEC. 6; XII, SEC. 2, 6; XVI, SEC. 6; XIII, XXXV, XLI.

6.9.22 By the 13th paragraph "no member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to the subjects of the State by this constitution, unless by the law of the land, or judgment of its peers."

The 35th adopts, under certain exceptions and modifications, the common law of England, the statute law of England and Great Britain, and the acts of the legislature of the colony, which together formed the law on the 19th of April, 1775.

The 41st provides "that the trial by jury remain inviolate forever; that no acts of attainder shall be passed by the legislature of this State for crimes other than those committed before the termination of the present war. And that the legislature shall at no time hereafter institute any new courts but such as shall proceed according to the course of the common law.

6.9.23 There can be no doubt that if the new government be adopted in all its latitude, every one of these paragraphs will become a dead letter: nor will it solve any difficulties, if the United States guarantee "to every state in the union a republican form of government"; we may be allowed the form and not the substance, and that it was so intended will appear from the changing the word *constitution* to the word *form* and the omission of the words, *and its existing laws*. And I do not even think it uncharitable to suppose that it was designedly done; but whether it was so or not, by leaving out these words the jurisprudence of each state is left to the mercy of the new government. By 1st art., 8th sec., 1st clause, "The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States."

By the 9th clause of the same section, "To constitute tribunals inferior to the court."

By the 18th clause, "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department thereof."

The 3d art., 1st sec., "The judicial power of the United States shall be

vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish."

By sec. 2nd, "The judicial power shall extend to all cases in law and equity." To have in various instances an original and exclusive, in others a concurrent jurisdiction, and the supreme court in many cases an appellate jurisdiction, both as to law and fact. It provides, indeed, that the trial for crimes shall be by jury, but has left the trial in civil matters to the mercy of construction and their own legislative sovereign will and pleasure.

By the 3d art., 3d sec., "The Congress shall have power to declare the punishment of treason, but no attainder shall work a corruption of blood or forfeiture, except during the life of the person attainted. By 1st art., 9th sec., 3d clause, "No bill of attainder or ex post facto law shall be passed."

XVII, XVIII, XIX, XX, XXI, XXII, XXIII, XL.

The 17th orders "That the supreme executive power and authority of this State shall be vested in a governor."[10] By the 18th he is commander-in-chief of the militia and admiral of the navy of the State; may grant pardons to all persons convicted of crimes; he may suspend the execution of the sentence in treason or murder. 6.9.24

By the 19th paragraph he is to see that the laws and resolutions of the legislature be faithfully executed.

By the 27th he is president of the council of appointment, and has a casting vote and the commissioning of all officers.

The 20th and 21st paragraphs give the lieutenant-governor, on the death, resignation, removal from office, or impeachment of the governor, all the powers of a governor.

The 40th paragraph orders that the militia at all times, both in peace and war, shall be armed and disciplined, and kept in readiness; in what manner the Quakers shall be excused; and that a magazine of warlike stores be forever kept at the expence of the State, and by act of the legislature, established, maintained, and continued in every county in the State.

Whoever considers the following powers vested in the government, and compares them with the above, must readily perceive they are either all enervated or annihilated. 6.9.25

By the 1st art., 8th sec., 15th, 16th and 17th clauses, Congress will be empowered to call forth the militia to execute the laws of the union, suppress insurrections and repel invasions; to provide for organizing, arming and disciplining the militia, for the governing such part of them as may be employed in the service of the United States, and for the erection of forts, magazines, etc.

And by the 2nd art., 2d sec., "The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into actual service of the United States. And he shall

have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment."

And by the 6th art., "The members of the several state legislatures, and all the executive and judicial officers; both of the United States, and of the several states, shall be bound by oath or affirmation to support the constitution." Can this oath be taken by those who have already taken one under the constitution of this state?

XVIII, SEC. 17; XIX, SEC. 17; XX, SEC. 17; XXI, SEC. 17; XXIII, SEC. 17; XXII TO XXX INCLUSIVE.

6.9.26 These paragraphs regulate the election, appointment, construction and duration of all the state, county and district officers, including the delegates to Congress, and how they severally are to be created and commissioned.

The 22d directs that the treasurer shall be appointed by act of the legislature to originate with the assembly. The 23d establishes a council to appoint the officers.

The 24th directs that the military officers shall be, during the pleasure of the council, the chancellor, judges of the supreme court, the first judge in every county until the age of 60.

Twenty-five and 28, which offices are incompatible, and the tenure and duration of such officers.

Twenty-six, that sheriffs and coroners be annually appointed, and shall not continue more than four years.

Twenty-seven, that the officers of the court be appointed by the respective courts, except the attorneys, by the first judge of every court.

Twenty-nine, provides that town clerks, supervisors, assessors, constables and collectors, and all other officers heretofore elegible by the people, shall always continue to be so elegible.

Thirty, directs the mode how the delegates to represent this state in the general Congress of the United States shall be elected.

6.9.27 I apprehend that the paragraphs aforesaid will be compleatly rendered unoperative by the following articles in the new constitution:

Second article, second section, second clause, the president "shall have power, and by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the supreme court, and all officers of the United States where appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the power of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments." By the 1st art., 8 section, 9, 18 clauses, Congress have power "to constitute tribunals inferior to the supreme court, to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof."

By the third article, 2d section, there is an extensive federal power as above-mentioned.

By the 2d article, 2d section, the president "shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

From these powers lodged in Congress and the powers vested in the states, it is clear that there must be a government within a government, two legislative, executive and judicial powers. The power of raising an army in time of peace, and to command the militia, will give the president ample means to enforce the supreme laws of the land.

XXIII, SEC. 21; XXIV, SEC. 21; XXV, SEC. 21; XXVI, SEC. 21; XXVII, SEC. 21; XXVIII, SEC.21; XXIX, SEC.21; XXX, SEC.21; XXXI, SEC. 2; XXXII, XXXIII, XXXIV.

The 32d paragraph orders, "That a court shall be instituted for the trial of impeachments and the correction of errors under the regulations which shall be established by the legislature, and to consist of the president of the senate for the time being, and the senators, chancellors and judges of the supreme court." 6.9.28

The 33d vests the power of impeaching all officers of the state for mal and corrupt practice in the representatives of the people in assembly.

The 34th allows the parties impeached or indicted for crimes and misdemeanors to have counsel.

This system is undermined and rendered nugatory by 1st art., 6th and 7th clauses, where the senate in the new constitution, have the trial and judgment on all impeachments.

By 3d art., 2d sec., 3d clause, the trial of all crimes is regulated.

By the 3d art., 3d sec., it is defined what shall be treason, the proof required, the punishment, and how the judgment in attainder shall operate.

XXXIII, SEC. 32; XXXIV, SEC. 32; XXXV, SEC. 13; XXXVII, SEC. 1; XXXVIII, XXXIX.

The 38th paragraph provides "that the free exercise and enjoyment of religious procession and worship, without discrimination or preference, shall forever hereafter be allowed within this State to all mankind, provided that the liberty of conscience hereby granted shall not excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the State." 6.9.29

The 39th provides that "no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to or capable of holding any civil or military office or place within this state."

The first of those articles protects us from persecution in religious mat-

ters. The other excludes the clergy from enjoying any office, civil or military. Two provisions passed by in silence by the framers of the new constitution; and although possibly the leaders in both have been equally averse to a democratic system, and have had the same object, the ruin of state government, in view.

XLII.

6.9.30 This paragraph provides "that it shall be in the discretion of the legislature to naturalize all such persons and in such manner as they shall think proper."

The 1st art., 8 sec., 4th clause, give to the new government power to establish a uniform rule of naturalization.

And by the 4th art., 2d sec., "the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states," whereby the clause is rendered entirely nugatory.

From this contrast it appears that the general government, when compleatly organized, will absorb all those powers of the state which the framers of its constitution had declared should be only exercised by the representatives of the people of the state; that the burthens and expence of supporting a state establishment will be perpetuated; but its operations to ensure or contribute to any essential measures promotive of the happiness of the people may be totally prostrated, the general government arrogating to itself the right of interfering in the most minute objects of internal police, and the most trifling domestic concerns of every state, by possessing a power of passing laws "to provide for the general welfare of the United States," which may affect life, liberty and property in every modification they may think expedient, unchecked by cautionary reservations, and unrestrained by a declaration of any of those rights which the wisdom and prudence of America in the year 1776 held ought to be at all events protected from violation.

In a word, the new constitution will prove finally to dissolve all the power of the several state legislatures, and destroy the rights and liberties of the people; for the power of the first will be all in all, and of the latter a mere shadow and form without substance, and if adopted we may (in imitation of the Carthagenians) say, Delenda vit Americæ.

Sydney.

1. The source of this quotation has not been found. For references to the Anti-Federalists' fear of consolidation see Plebeian 6.11.15 n. 9.

2. Official Letter from Congress Accompanying Act of Confederation, 17 November 1777, Elliot I, 69.

3. *An Address of the Convention of the State of New York to Their Constituents*, 23 December 1776 (Philadelphia 1777) (Evans *Early American Imprints* no. 15468) 3, 14.

4. The first quotation is from the Resolution of Congress, 10–15 May 1776, *Jour-*

nals of the Continental Congress IV, 357–58; the second is of course from the Declaration of Independence.

5. Constitution of the State of New York, 1777, Thorpe, *Federal and State Constitutions* V, 2623–38.

6. The thirteenth Article of Confederation provided that every state shall abide by the determination of questions duly decided by Congress, that the union shall be perpetual, and that no alteration shall be made unless agreed to in Congress and afterwards confirmed by the legislatures of every state.

7. Articles of Confederation, Art. 9., para. 4.

8. *Journals of the Continental Congress* XXXI, 490–93.

9. See Farrand I, 227 (13 June). If the author was Yates, he might have been relying on his own notes of the Convention (not published until 1821); but this information, together with much more about the Convention proceedings, had already been published by Luther Martin. See Martin 2.4.27. On the publication of the various notes of the convention, see Farrand I, xi ff.

10. Cf. the comparison by Publius of the governor of New York and the President of the United States in *The Federalist* no. 69. For references to other such comparisons, Philadelphiensis XII, 3.9.96.

Address of the Albany Antifederal Committee

(Jer. Van Rensselaer, Chairman)

NEW YORK JOURNAL
26 April 1788

This statement was issued by a committee of Albany Anti-Federalists in support of Anti-Federal lists of candidates for the New York ratifying convention and the New York legislature. The statement begins with a standard and somewhat crudely composed list of objections: the latter part takes up and rebuts in somewhat more substantial fashion certain Federalist arguments regarding the need for the new Constitution, its expense, the regulation of trade, and the question of prior amendment.

Albany, April 10, 1788

6.10.1 On the last Tuesday of April inst. delegates are to be chosen, by the people, to determine the important question, whether the proposed new constitution shall be adopted or rejected—A determination of the utmost consequence to the citizens of the state and to posterity. From an apprehension that the constitution, if adopted in its present form, would deprive the people of their dearest rights and liberties, a number of gentlemen, from different parts of this county, met for the purpose of nominating and recommending delegates for convention, and unanimously resolved on the following gentlemen:

Robert Yates, John Lansing, jun. Henry Oothoudt, Peter Vrooman, Dirck Swart, Israel Thompson, Anthony Ten Eyck.

6.10.2 As we have been informed, that the advocates for the new constitution, have lately travelled through the several districts in the county, and propogated an opinion, that it is a good system of government; we beg leave to state, in as few words as possible, some of the many objections against it.—

The convention, who were appointed for the sole and express purpose of revising and amending the confederation, have taken upon themselves the power of making a new one.

They have not formed a *federal* but a *consolidated* government, repugnant to the principles of a republican government; not founded on the preservation but the destruction of the state governments.

The great and extensive powers granted to the new government over the lives, liberties, and property of every citizen.

These powers in many instances not defined or sufficiently explained, and capable of being interpreted to answer the most ambitious and arbitrary purposes.

The small number of members who are to compose the general legislature, which is to pass laws to govern so large and extensive a continent, inhabited by people of different laws, customs, and opinions, and many of them residing upwards of 400 miles from the seat of government.

The members of the senate are not to be chosen by the people, but appointed by the legislature of each state for the term of six years. This will destroy their responsibility, and induce them to act like the masters and not the servants of the people.[1] 6.10.3

The power to alter and regulate the time, place, and manner of holding elections, so as to keep them subjected to their influence.

The power to lay poll taxes, duties, imposts, excises, and other taxes.

The power to appoint Continental officers to levy and collect those taxes.

Their laws are to be *the supreme law of the land,* and the judges in every state are to be bound thereby, notwithstanding *the constitution or laws* of any state to the contrary.—A sweeping clause, which subjects every thing to the controul of the new government. 6.10.4

Slaves are taken into the computation in apportioning the number of representatives, whereby 50,000 slaves, give an equal representation with 30,000 freemen.

The provision that the net produce of all duties and imposts, *laid by the legislature of any state,* on imports or exports, shall be for the use of the treasury of the United States.

The provision that none of the states shall coin money or emit bills of credit.

The power to raise, support, and maintain a standing army *in time of peace*. The bane of a republican government; by a standing army most of the once free nations of the globe have been reduced to bondage; and by this Britain attempted to inforce her arbitrary measures. 6.10.5

The power to call forth the militia to any part of the continent, without any limitation of time or place, under the command of the president, or such continental officers as shall be appointed over them.

Men conscienciously scrupulous of bearing arms, made liable to perform military duty.[2]

The power of the new government to establish the salaries for their own services. 6.10.6

The power with respect to the payment of the salaries to *inferior court Judges in the several states;* and which salaries the new constitution declares are not to be diminished.

Their power relative to the migration or importation of foreigners.

The not securing the rights of conscience in matters of religion, of granting the liberty of worshipping God agreeable to the mode thereby dictated; whereas the experience of all ages proves that the benevolence and humility inculcated in the gospel, are no restraint on the love of domination.

6.10.7 The vast executive power vested in one man (not elected by the people) who, though called President, will have powers equal if not superior to many European kings.

His legislative power of negativing all laws, resolutions and votes, thereby to prevent their passing unless agreed to by two thirds of both houses of the legislature.

His long continuance in office, and even at the end of four years capable of being again chosen, and continued for life.

6.10.8 The great powers granted to the grand continental supreme court, extending to all cases in law and equity, and the allowing that court original jurisdiction in certain cases.

The granting of appeals to that court on both law and fact. A powerful engine in the hands of the rich, to oppress and ruin the poor.

The power to establish inferior courts in every state.

No provision being made to prevent placemen and pensioners.

Nor for the liberty of the press, that grand palladium of liberty and scourge of tyrants.

The tryal by jury, that sacred bulwark of liberty, is not provided for in civil cases.

6.10.9 The power of appointing as many continental officers as they shall think proper in every state, and thereby extending their influence over every part of the United States.

The great additional expences of the new government, and the burthensome and heavy taxes which will thereby be occasioned.

6.10.10 The guaranteeing to the several states, not the substance, but a republican form of government, and the states left at the mercy of the general government, to allow them such a form as they shall deem proper.

They have declared, that if the conventions of nine states ratify the constitution, it shall be established between the states so ratifying the same; by which means, if all the states should not adopt it, they have laid a foundation to defeat the confederation and dissolve the union of the states. A clause dictated by the same genius of aristocracy, which prompted the convention to enjoin secresy on their members, to keep their doors shut, their journals locked up, and none of the members to take any extracts.

By the articles of confederation each state retains what is not expressly

granted to Congress;[3] but in the new constitution, there is no provision or bill of rights, to secure any of the fundamental rights and liberties of the people.

Notwithstanding so many and such powerful objections to this constitution, some of its zealous advocates, have industriously attempted to persuade the people to adopt it. Is it for the sake of poor and common people, that the rich and well born are so indefatigable? or is it because they and their friends and connections expect to possess some of the many lucrative offices under the new government? 6.10.11

They have asserted, that the present confederation is defective and will tend to anarchy and confusion.

That the expences of the new government will be less.

That the value of produce will be raised.

That the concurrence of nine states will bind the whole.

That the constitution may hereafter be amended.

As to the first, it is the weakest of all weak reasons, to adopt a bad constitution because the present one is defective.—A person of a sickly habit or constitution might as well put an end to his existence, for fear that his sickness or infirmity would be the cause of his death.—As to the second, a man must be very credulous and ignorant indeed, who can suppose that the new government will not be more expensive.—Will not the raising and supporting an army and navy, in time of peace, create additional expence? Can the multitude and variety of the salaries of the continental supreme court judges, the continental inferior court judges in the different states, and other civil officers in the judicial department, be paid without great additional expence? Can a federal town for the seat of the national government, be built without additional expence? Will not the furniture necessary for the continental president, vice-president, secretaries, treasurers, comptrollers, ministers, &c. &c. to grace their tables and adorn the rooms of their stately palaces, be costly and expensive? Can all these things, with many others, be accomplished without great additional expence, and without laying heavy and burthensome taxes on the people? As well might the Israelites of old, have made brick without straw. 6.10.12

With respect to the regulation of trade, this may be vested in Congress under the present confederation, without changing the fundamental principles of the general as well as all the state governments; nor is it probable, that if the new constitution should be adopted, the value of produce would be thereby increased—as well might it be said, that our soil will be better and our lands more fruitful. 6.10.13

The assertion, that the adoption of the constitution by nine states will bind every state, is not true. This falsehood is contradicted by the express words of the last clause; and the threats given out that the dissenting states will be 6.10.14

compelled to adopt it, is the language of tyrants, and an insult on the understandings of a free people.

6.10.15 With regard to amendments, some of the strongest and most zealous advocates for the new constitution, at first, and for a long time, affect to hold it up as a good system of government; but after various and repeated journies into the country (having discovered that the people were generally opposed to the constitution, and that they can and will judge on a matter of such consequence to themselves and their posterity) these same zealous advocates have since changed their ground, and altered their plan of operations: They now acknowledge it to be defective but endeavour to prevail on the people, first to adopt it, and afterwards (like Massachusetts) trust to a recommendation for future amendments. Would it be prudent or safe for the people to surrender their dearest rights and liberties, to the discretionary disposal of their future rulers? First to make a surrender and afterwards ask for terms of capitulation.

6.10.16 The free men of America have fought and bled to oppose the oppression and usurpation of Great-Britain; and shall they now resign these rights and privileges, to a government which, if possible, may be still more arbitrary and despotic? Sacred as well as profane history afford abundant examples to prove that the most strenuous assertors of liberty, in all ages, after having successfully triumphed over tyranny, have themselves become tyrants, when intrusted by the people with unlimited and uncontroulable powers.

6.10.17 No amendments can be obtained without the consent of three fourths of the states; is it probable that such consent will ever be obtained, to amendments which will tend to abridge the powers of the new government? is it not rather more probable, that if any amendments are made, they will rather enlarge those powers? will not those in power have influence sufficient at all times, to prevent more than one-fourth of the states to consent to future amendments? From this source then, amendments are not to be expected, nor is it to be presumed, that if the people once resign such great and extensive powers, they will ever be enabled to wrest them from a national government having the command of the purse as well as the sword.

The 5th article of the constitution points out a mode to obtain amendments, after it is adopted, which is to call a convention for the purpose; and we conceive that a convention may be called to amend the constitution, before it is adopted with so many material and radical defects.

6.10.18 These, among many others, are the reasons that have induced us to oppose the new constitution in its present form. A constitution destructive of the fundamental principles of the general as well as all the state governments; dangerous to the rights and liberties of the people, and which, if adopted without previous amendments, will, in our opinion, terminate in slavery.

If therefore you entertain the like sentiments, relative to this constitution,

we beg leave to request your vote and interest in favor of the above delegates, whose opinions, we have reason to conclude, agree with ours on this important subject.

We are, Gentlemen,
your most humble servants.

By order of the
Committee,
Jer. Van Rensselaer, Chairman.
Mat. Visscher, Clerk.

The subscribers being of opinion, that the reasons abovementioned, are conclusive against adopting the new constitution without previous amendments, recommend the above named gentlemen, as candidates for members of convention, and the following, for members of senate and assembly: to wit, Peter Van Ness, for senator; John Lansing, jun. Jeremiah Van Rensselaer, Cornelius Van Dyck, John Duncan, John Thompson, Henry K. Van Rensselaer, and John Younglove, for assemblymen.

Jacob C. Ten Eyck,
John R. Bleecker,
Gerrit Lansing, jun.
Cornelius K. Van Den Berg,
Abraham Yates, jun.
Gysbert Fonda,
Cornelius Wendell,
Volkert A. Douw,
Abraham Cuyler,
Henry Ten Eyck,
Henry Wendell,
Peter W. Douw,
Wm. Mancius,
Robert Lansing,
John Price,
Arie Lagrange,
Henry Lansing,
Jacob G. Lansing,
John W. Wendell,
Abm. Bloodgood,
Gysbert Marselus,
Peter W. Yates,
Dirck B. Van Schoonhoven,
Jacob Roseboom,
Richard Lush,
Peter Sharp.

1. See Cincinnatus IV, 6.1.27 n. 21.
2. The New York Constitution of 1777, Sec. XL, provided for a payment of money in lieu of military service for "all such of the inhabitants of this state being of the people called Quakers as, from scruples of conscience, may be averse to the bearing of arms . . . . " Thorpe, *Federal and State Constitutions* V, 2637.
3. Articles of Confederation, Art. 2.

Address by A Plebeian

New York, 1788

The address by A Plebeian is aimed at showing the necessity of making amendments to the Constitution prior to adoption. Although somewhat routine, the essay nevertheless contains some substantial sections. There is a good Anti-Federal account of the circumstances of the country, the evils of which are not primarily due to bad government and not in any case sufficient to require hasty action (6.11.5–7); there is a good reply to the Federalist prediction of civil war if the Constitution is not ratified (6.11.8–10); there is a better than average statement of the reasons for procuring amendments before adoption, while the people are still alert to the issues (6.11.1–4, 11); there is a solid defense of the essential agreement among the critics of the Constitution and a list of the essential criticisms (6.11.12–17); finally there is a strong warning that the economic difficulties of the country will not be solved by the new Constitution but by frugality and industry (6.11.18–23). A Plebeian urges the people of New York to choose as delegates to their convention men who have consistently opposed the Constitution in its present form (6.11.24–27). In a postscript, he replies briefly to the Address by A Citizen of New York, dealing particularly with that author's criticism of the government under the Articles of Confederation, provision for the liberty of the press, the need for a bill of rights, and the character and abilities of the framers (6.11.28–33).

This address appeared as a pamphlet published in New York in 1788, probably in the early spring.[1] The author is identified by Ford as Melancton Smith, one of the best minds among the New York Anti-Federalists,[2] although the pamphlet falls below the level of Smith's performance in the New York convention.[3]

1. The pamphlet was reviewed in Noah Webster's *American Magazine* in April 1788, and a reprint appeared in the Philadelphia *Independent Gazetteer* in May.
2. Ford, *Pamphlets* 87. No evidence for this attribution is given by Ford, nor has any been discovered by the present editor.
3. See 6.12.

Friends and Fellow Citizens,

The advocates for the proposed new constitution, having been beaten off the field of argument, on its merits, have now taken new ground. They admit it is liable to well-founded objections—that a number of its articles ought to be amended; that if alterations do not take place, a door will be left open for an undue administration, and encroachments on the liberties of the people; and many of them go so far as to say, if it should continue for any considerable period, in its present form, it will lead to a subversion of our equal republican forms of government.—But still, although they admit this, they urge that it ought to be adopted, and that we should confide in procuring the necessary alterations after we have received it. Most of the leading characters, who advocate its reception, now profess their readiness to concur with those who oppose it, in bringing about the most material amendments contended for, provided they will first agree to accept the proffered system as it is. These concessions afford strong evidence, that the opposers of the constitution have reason on their side, and that they have not been influenced, in the part they have taken, by the mean and unworthy motives of selfish and private interests with which they have been illiberally charged.—As the favourers of the constitution, seem, if their professions are sincere, to be in a situation similiar to that of Agrippa, when he cried out upon Paul's preaching—"almost thou persuadest me to be a christian," I cannot help indulging myself in expressing the same wish which St. Paul uttered on that occasion, "Would to God you were not only almost, but altogether such an one as I am."[1] But alas, as we hear no more of Agrippa's christianity after this interview with Paul, so it is much to be feared, that we shall hear nothing of amendments from most of the warm advocates for adopting the new government, after it gets into operation. When the government is once organized, and all the offices under it filled, the inducements which our great men will have to support it, will be much stronger than they are now to urge its reception. Many of them will then hold places of great honour and emolument, and others will be candidates for such places. It is much harder to relinquish honours or emoluments, which we have in possession, than to abandon the pursuit of them, while the attainment is held in a state of uncertainty.—The amendments contended for as necessary to be made, are of such a nature, as well tend to limit and abridge a number of the powers of the government. And is it probable, that those who enjoy these powers will be so likely to surrender them after they have them in possession, as to consent to have them restricted in the act of granting them? Common sense says—they will not. 6.11.1

When we consider the nature and operation of government, the idea of receiving a form radically defective, under the notion of making the necessary amendments, is evidently absurd. 6.11.2

Government is a compact entered into by mankind, in a state of society, for the promotion of their happiness. In forming this compact, common

sense dictates, that no articles should be admitted that tend to defeat the end of its institution. If any such are proposed, they should be rejected. When the compact is once formed and put into operation, it is too late for individuals to object. The deed is executed—the conveyance is made—and the power of reassuming the right is gone, without the consent of the parties.—Besides, when a government is once in operation, it acquires strength by habit, and stability by exercise. If it is tolerably mild in its administration, the people sit down easy under it, be its principles and forms ever so repugnant to the maxims of liberty.—It steals, by insensible degrees, one right from the people after another, until it rivets its powers so as to put it beyond the ability of the community to restrict or limit it.[2] The history of the world furnishes many instances of a people's increasing the powers of their rulers by persuasion, but I believe it would be difficult to produce one in which the rulers have been persuaded to relinquish their powers to the people. Wherever this has taken place, it has always been the effect of compulsion. These observations are so well-founded, that they are become a kind of axioms in politics; and the inference to be drawn from them is equally evident, which is this,—that, in forming a government, care should be taken not to confer powers which it will be necessary to take back; but if you err at all, let it be on the contrary side, because it is much easier, as well as safer, to enlarge the powers of your rulers, if they should prove not sufficiently extensive, than it is to abridge them if they should be too great.[3]

6.11.3 It is agreed, the plan is defective—that some of the powers granted, are dangerous—others not well defined—and amendments are necessary. Why then not amend it? why not remove the cause of danger, and, if possible, even the apprehension of it? The instrument is yet in the hands of the people; it is not signed, sealed, and delivered, and they have power to give it any form they please.

6.11.4 But it is contended, adopt it first, and then amend it. I ask, why not amend, and then adopt it? Most certainly the latter mode of proceeding is more consistent with our ideas of prudence in the ordinary concerns of life. If men were about entering into a contract respecting their private concerns, it would be highly absurd in them to sign and seal an instrument containing stipulations which are contrary to their interests and wishes, under the expectation, that the parties, after its execution, would agree to make alterations agreeable to their desires.—They would insist upon the exceptionable clauses being altered before they would ratify the contract. And is a compact for the government of ourselves and our posterity of less moment than contracts between individuals? certainly not. But to this reasoning, which at first view would appear to admit of no reply, a variety of objections are made, and a number of reasons urged for adopting the system, and afterwards proposing amendments.—Such as have come under my observation, I shall state, and remark upon.

1.[4] It is insisted, that the present situation of our country is such, as not to admit of a delay in forming a new government, or of time sufficient to deliberate and agree upon the amendments which are proper, without involving ourselves in a state of anarchy and confusion. 6.11.5

On this head, all the powers of rhetoric, and arts of description, are employed to paint the condition of this country, in the most hideous and frightful colours. We are told, that agriculture is without encouragement; trade is languishing; private faith and credit are disregarded, and public credit is prostrate; that the laws and magistrates are contemned and set at nought; that a spirit of licentiousness is rampant, and ready to break over every bound set to it by the government; that private embarrassments and distresses invade the house of every man of middling property, and insecurity threatens every man in affluent circumstances: in short, that we are in a state of the most grievous calamity at home, and that we are contemptible abroad, the scorn of foreign nations, and the ridicule of the world.[5] From this high-wrought picture, one would suppose, that we were in a condition the most deplorable of any people upon earth. But suffer me, my countrymen, to call your attention to a serious and sober estimate of the situation in which you are placed, while I trace the embarrassments under which you labour, to their true sources. What is your condition? Does not every man sit under his own vine and under his own fig-tree, having none to make him afraid? Does not every one follow his calling without impediments and receive the reward of his well-earned industry? The farmer cultivates his land, and reaps the fruit which the bounty of heaven bestows on his honest toil. The mechanic is exercised in his art, and receives the reward of his labour. The merchant drives his commerce, and none can deprive him of the gain he honestly acquires; all classes and callings of men amongst us are protected in their various pursuits, and secured by the laws in the possession and enjoyment of the property obtained in those pursuits. The laws are as well executed as they ever were, in this or any other country. Neither the hand of private violence, nor the more to be dreaded hand of legal oppression, are reached out to distress us.[6]

It is true, many individuals labour under embarrassments, but these are to be imputed to the unavoidable circumstances of things, rather than to any defect in our governments. We have just emerged from a long and expensive war. During its existence few people were in a situation to encrease their fortunes, but many to diminish them. Debts contracted before the war were left unpaid while it existed, and these were left a burden too heavy to be borne at the commencement of peace. Add to these, that when the war was over, too many of us, instead of reassuming our old habits of frugality and industry, by which alone every country must be placed in a prosperous condition, took up the profuse use of foreign commodities. The country was deluged with articles imported from abroad, and the cash of the country has 6.11.6

been sent out to pay for them, and still left us labouring under the weight of a huge debt to persons abroad. These are the true sources to which we are to trace all the private difficulties of individuals: But will a new government relieve you from these? The advocates for it have not yet told you how it will do it—And I will venture to pronounce, that there is but one way in which it can be effected, and that is by industry and œconomy; limit your expences within your earnings; sell more than you buy, and every thing will be well on this score. Your present condition is such as is common to take place after the conclusion of a war. Those who can remember our situation after the termination of the war preceding the last, will recollect that our condition was similar to the present, but time and industry soon recovered us from it. Money was scarce, the produce of the country much lower than it has been since the peace, and many individuals were extremely embarrassed with debts; and this happened, although we did not experience the ravages, desolations, and loss of property, that were suffered during the late war.[7]

6.11.7 With regard to our public and national concerns, what is there in our condition that threatens us with any immediate danger? We are at peace with all the world; no nation menaces us with war; Nor are we called upon by any cause of sufficient importance to attack any nation. The state governments answer the purposes of preserving the peace, and providing for present exigencies. Our condition as a nation is in no respect worse than it has been for several years past. Our public debt has been lessened in various ways, and the western territory, which has always been relied upon as a productive fund to discharge the national debt, has at length been brought to market, and a considerable part actually applied to its reduction. I mention these things to shew, that there is nothing special, in our present situation, as it respects our national affairs, that should induce us to accept the proffered system, without taking sufficient time to consider and amend it. I do not mean by this, to insinuate, that our government does not stand in need of a reform. It is admitted by all parties, that alterations are necessary in our federal constitution, but the circumstances of our case do by no means oblige us to precipitate this business, or require that we should adopt a system materially defective. We may safely take time to deliberate and amend, without in the mean time hazarding a condition, in any considerable degree, worse than the present.

6.11.8 But it is said, that if we postpone the ratification of this system until the necessary amendments are first incorporated, the consequence will be a civil war among the states.[8] On this head weak minds are alarmed with being told, that the militia of Connecticut and Massachusetts on the one side, and of New-Jersey and Pennsylvania on the other, will attack us with hostile fury; and either destroy us from off the face of the earth, or at best divide us between the two states adjoining us on either side. The apprehension of

danger is one of the most powerful incentives to human action, and is therefore generally excited on political questions: But still, a prudent man, though he foreseeth the evil and avoideth it, yet he will not be terrified by imaginary dangers. We ought therefore to enquire what ground there is to fear such an event?—There can be no reason to apprehend, that the other states will make war with us for not receiving the constitution proposed, until it is amended, but from one of the following causes: either that they will have just cause to do it, or that they have a disposition to do it. We will examine each of these:—That they will have no just cause to quarrel with us for not acceding, is evident, because we are under no obligation to do it, arising from any existing compact or previous stipulation. The confederation is the only compact now existing between the states: By the terms of it, it cannot be changed without the consent of every one of the parties to it. Nothing therefore can be more unreasonable than for part of the states to claim of the others, as matter of right, an accession to a system to which they have material objections. No war can therefore arise from this principle, but on the contrary, it is to be presumed, it will operate strongly the opposite way.—The states will reason on the subject in the following manner: On this momentuous question, every state has an indubitable right to judge for itself: This is secured to it by solemn compact, and if any of our sister states disagree with us upon the question, we ought to attend to their objections, and accommodate ourselves as far as possible to the amendments they propose.

As to the inclination of the states to make war with us, for declining to accede, until it is amended, this is highly improbable, not only because such a procedure would be most unjust and unreasonable in itself, but for various other reasons. 6.11.9

The idea of a civil war amongst the states is abhorrent to the principles and feelings of almost every man of every rank in the union. It is so obvious to every one of the least reflection, that in such an event we should hazard the loss of all things, without the hope of gaining any thing, that the man who should entertain a thought of this kind, would be justly deemed more fit to be shut up in Bedlam, than to be reasoned with. But the idea of one or more states attacking another, for insisting upon alterations in this system, before it is adopted, is more extravagant still; it is contradicting every principle of liberty which has been entertained by the states, violating the most solemn compact, and taking from the state the right of deliberation. Indeed to suppose, that a people, entertaining such refined ideas of the rights of human nature as to be induced to wage war with the most powerful nation on earth, upon a speculative point, and from the mere apprehension of danger only, should so far be lost to their own feelings and principles, as to deny to their brethren, who were associated with them in the arduous conflict, the right of free deliberation on a question of the first importance to

their political happiness and safety, is equally an insult to the character of the people of America, and to common sense, and could only be suggested by a vicious heart and a corrupt mind.

6.11.10 The idea of being attacked by the other states, will appear visionary and chimerical, if we consider that tho' several of them have adopted the new constitution, yet the opposition to it has been numerous and formidable. The eastern states from whom we are told we have most to fear, should a civil war be blown up, would have full employ to keep in awe those who are opposed to it in their own governments. Massachusetts, after a long and dubious contest in their convention, has adopted it by an inconsiderable majority, and in the very act has marked it with a stigma in its present form. No man of candour, judging from their public proceedings, will undertake to say, on which side the majority of the people are. Connecticut, it is true, have acceded to it, by a large majority of their convention; but it is a fact well known, that a large proportion of the yeomanry of the country are against it:—And it is equally true, that a considerable part of those who voted for it in the convention, wish to see it altered. In both these states the body of the common people, who always do the fighting of a country, would be more likely to fight against than for it: Can it then be presumed, that a country, divided among themselves, upon a question where even the advocates for it, admit the system they contend for needs amendments, would make war upon a sister state, who only insist that that should be done before they receive it, which it is granted ought to be done after, and where it is confessed no obligation lies upon them by compact to do it. Can it, I say, be imagined, that in such a case they would make war on a sister state? The idea is preposterous and chimerical.

6.11.11 It is further urged, we must adopt this plan because we have no chance of getting a better. This idea is inconsistent with the principles of those who advance it. They say, it must be altered, but it should be left until after it is put in operation. But if this objection is valid, the proposal of altering, after it is received, is mere delusion.

6.11.12 It is granted, that amendments ought to be made; that the exceptions taken to the constitution, are grounded on just principles, but it is still insisted, that alterations are not to be attempted until after it is received: But why not? Because it is said, there is no probability of agreeing in amendments previous to the adoption, but they may be easily made after it. I wish to be informed what there is in our situation or circumstances that renders it more probable that we shall agree in amendments better after, than before submitting to it? No good reason has as yet been given; it is evident none can be given: On the contrary, there are several considerations which induce a belief, that alterations may be obtained with more ease before, than after its reception, and if so, every one must agree, it is much the safest. The importance of preserving an union, and of establishing a government equal to the purpose of maintaining that union, is a sentiment deeply impressed on

the mind of every citizen of America. It is now no longer doubted, that the confederation, in its present form, is inadequate to that end: Some reform in our government must take place. In this, all parties agree: It is therefore to be presumed, that this object will be pursued with ardour and preseverance, until it is attained by all parties. But when a government is adopted that promises to effect this, we are to expect the ardour of many, yea, of most people, will be abated;—their exertions will cease, or be languid, and they will sit down easy, although they may see, that the constitution which provides for this, does not sufficiently guard the rights of the people, or secure them against the encroachments of their rulers. The great end they had in view, the security of the union, they will consider effected, and this will divert their attention from that which is equally interesting, safety to their liberties. Besides, the human mind cannot continue intensely engaged for any great length of time upon one object. As after a storm, a calm generally succeeds, so after the minds of a people have been ardently employed upon a subject, especially upon that of government, we commonly find that they become cool and inattentive: Add to this, that those in the community who urge the adoption of this system, because they hope by it to be raised above the common level of their fellow citizens; because they expect to be among the number of the few who will be benefitted by it, will more easily be induced to consent to the amendments before it is received than afterwards. Before its reception, they will be inclined to be pliant and condescending; if they cannot obtain all they wish, they will consent to take less. They will yield part to obtain the rest. But when the plan is once agreed to, they will be tenacious of every power, they will strenuously contend to retain all they have got; this is natural to human nature, and it is consonant to the experience of mankind. For history affords us no examples of persons once possessed of power, resigning it willingly.

The reasonings made use of to persuade us, that no alterations can be 6.11.13
agreed upon previous to the adoption of the system, are as curious as they are futile. It is alledged, that there was great diversity of sentiments in forming the proposed constitution; that it was the effect of mutual concessions and a spirit of accommodation, and from hence it is inferred, that farther changes cannot be hoped for. I should suppose that the contrary inference was the fair one. If the convention, who framed this plan, were possessed of such a spirit of moderation and condescension, as to be induced to yield to each other certain points, and to accommodate themselves to each other's opinions, and even prejudices, there is reason to expect, that this same spirit will continue and prevail in a future convention, and produce an union of sentiments on the points objected to. There is the more reason to hope for this, because the subject has received a full discussion, and the minds of the people much better known than they were when the convention sat. Previous to the meeting of the convention, the subject of a new form of government had been little thought of, and scarcely written

upon at all. It is true, it was the general opinion, that some alterations were requisite in the federal system. This subject had been contemplated by almost every thinking man in the union. It had been the subject of many well-written essays, and was the anxious wish of every true friend to America. But it never was in the contemplation of one in a thousand of those who had reflected on the matter, to have an entire change in the nature of our federal government—to alter it from a confederation of states, to that of one entire government, which will swallow up that of the individual states. I will venture to say, that the idea of a government similar to the one proposed, never entered the mind of the legislatures who appointed the convention, and of but very few of the members who composed it, until they had assembled and heard it proposed in that body: much less had the people any conception of such a plan until after it was promulgated. While it was agitated, the debates of the convention were kept an impenetrable secret, and no opportunity was given for well informed men to offer their sentiments upon the subject. The system was therefore never publicly discussed, nor indeed could be, because it was not known to the people until after it was proposed. Since that, it has been the object of universal attention—it has been thought of by every reflecting man—been discussed in a public and private manner, in conversation and in print; its defects have been pointed out, and every objection to it stated; able advocates have written in its favour, and able opponents have written against it. And what is the result? It cannot be denied but that the general opinion is, that it contains material errors, and requires important amendments. This then being the general sentiment, both of the friends and foes of the system, can it be doubted, that another convention would concur in such amendments as would quiet the fears of the opposers, and effect a great degree of union on the subject?—An event most devoutly to be wished. But it is farther said, that there can be no prospect of procuring alterations before it is acceded to, because those who oppose it do not agree among themselves with respect to the amendments that are necessary. To this I reply, that this may be urged against attempting alterations after it is received, with as much force as before; and therefore, if it concludes any thing, it is, that we must receive any system of government proposed to us, because those who object to it do not entirely concur in their objections. But the assertion is not true to any considerable extent. There is a remarkable uniformity in the objections made to the constitution, on the most important points. It is also worthy of notice, that very few of the matters found fault with in it, are of a local nature, or such as affect any particular state; on the contrary, they are such as concern the principles of general liberty, in which the people of New-Hampshire, New-York, and Georgia are equally interested.

6.11.14 It would be easy to shew, that in the leading and most important objections that have been made to the plan, there has been, and is an entire

concurrence of opinion among writers, and in public bodies throughout the United States.

I have not time fully to illustrate this by a minute narration of particulars; but to prove that this is the case, I shall adduce a number of important instances.

It has been objected to the new system, that it is calculated to, and will effect such a consolidation of the States, as to supplant and overturn the state governments. In this the minority of Pennsylvania, the opposition in Massachusetts, and all the writers of any ability or note in Philadelphia, New-York, and Boston concur.[9] It may be added, that this appears to have been the opinion of the Massachusetts convention, and gave rise to that article in the amendments proposed, which confines the general government to the exercise only of powers expressly given.[10] 6.11.15

It has been said, that the representation in the general legislature is too small to secure liberty, or to answer the intention of representation. In this there is an union of sentiments in the opposers.[11]

The constitution has been opposed, because it gives to the legislature an unlimited power of taxation, both with respect to direct and indirect taxes, a right to lay and collect taxes, duties, imposts, and excises of every kind and description, and to any amount. In this, there has been as general a concurrence of opinion as in the former.[12]

The opposers to the constitution have said that it is dangerous, because the judicial power may extend to many cases which ought to be reserved to the decision of the State courts, and because the right of trial by jury is not secured in the judicial courts of the general government, in civil cases. All the opposers are agreed in this objection.[13]

The power of the general legislature to alter and regulate the time, place, and manner of holding elections, has been stated as an argument against the adoption of the system. It has been urged, that this power will place in the hands of the general government, the authority, whenever they shall be disposed, and a favorable opportunity offers, to deprive the body of the people, in effect, of all share in the government. The opposers to the constitution universally agree in this objection, and of such force is it, that most of its ardent advocates admit its validity, and those who have made attempts to vindicate it, have been reduced to the necessity of using the most trifling arguments to justify it.[14] 6.11.16

The mixture of legislative, judicial, and executive powers in the senate;[15] the little degree of responsibility under which the great officers of government will be held;[16] and the liberty granted by the system to establish and maintain a standing army, without any limitation or restriction,[17] are also objected to the constitution; and in these, there is a great degree of unanimity of sentiment in the opposers.

From these remarks it appears, that the opponents to the system accord in 6.11.17

the great and material points on which they wish amendments. For the truth of the assertion, I appeal to the protest of the minority of the convention of Pennsylvania, to all the publications against the constitution, and to the debates of the convention of Massachusetts. As a higher authority than these, I appeal to the amendments proposed by the Massachusetts [convention]; these are to be considered as the sense of that body upon the defects of the system.[18] And it is a fact, which I will venture to assert, that a large majority of that convention were of opinion, that a number of additional alterations ought to be made. Upon reading the articles which they propose as amendments, it will appear, that they object to indefinite powers in the legislature—to the power of laying direct taxes—to the authority of regulating elections—to the extent of the judicial powers, both as it respects the inferior courts and the appellate jurisdiction—to the smallness of the representation, &c.—It is admitted, that some writers have advanced objections that others have not noticed—that exceptions have been taken by some, that have not been insisted upon by others, and it is probable, that some of the opponents may approve what others will reject. But still these difference are on matters of small importance, and of such a nature as the persons who hold different opinions will not be tenacious of. Perfect uniformity of sentiment on so great a political subject is not to be expected. Every sensible man is impressed with this idea, and is therefore prepared to make concessions and accommodate on matters of small importance. It is sufficient that we agree in the great leading principles, which relate to the preservation of public liberty and private security. And on these I will venture to affirm we are as well agreed, as any people ever were on a question of this nature. I dare pronounce, that were the principal advocates for the proposed plan to write comments upon it, they would differ more in the sense they would give the constitution, than those who oppose it do, in the amendments they would wish. I am justified in this opinion, by the sentiments advanced by the different writers in favour of the constitution.

6.11.18 It is farther insisted, that six states have already adopted the constitution; that probably nine will agree to it; in which case it will be put in operation. That it is unreasonable to expect that those states which have acceded to it, will reconsider the subject in compliance with the wishes of a minority.

6.11.19 To perceive the force of this objection, it is proper to review the conduct and circumstances of the states which have acceded it. It cannot be controverted, that Connecticut and New-Jersey were very much influenced in their determinations on the question, by local considerations. The duty of impost laid by this state, has been a subject of complaint by those states. The new constitution transfers the power of imposing these duties from the state to the general government, and carries the proceeds to the use of the union, instead of that of those [the?] state. This is a very popular matter with the people of those states, and at the same time, is not advanced by the sensible opposers to the system in this state as an objection to it.—To excite

in the minds of the people of these states an attachment to the new system, the amount of the revenue arising from our impost has been magnified to a much larger sum than it produces; it has been stated to amount to from sixty to eighty thousand pounds lawful money: and a gentleman of high eminence in Connecticut has lent the authority of his name to support it.[19] It has been said, that Connecticut pays a third of this sum annually for impost, and Jersey nearly as much. It has farther been asserted, that the avails of the impost were applied to the separate use of the state of New-York. By these assertions the people have been grossly imposed upon, for neither of them are true.

The amount of the revenue from impost for two years past, has not exceeded fifty thousand pounds currency, per annum, and a draw-back of duties is allowed by law, upon all goods exported to either of the beforementioned states, in casks or packages unbroken. 6.11.20

The whole of this sum, and more, has been paid into the federal treasury for the support of the government of the union. All the states therefore have actually derived equal benefit with the state of New-York, from the impost. It may be said, I know, that this state has obtained credit for the amount, upon the requisitions of Congress: It is admitted; but still it is a fact, that other states, and especially those who complain, have paid no part of the monies required of them, and have scarcely made an effort to do it. The fact therefore is, that they have received as much advantage from the impost of this state, as we ourselves have. The proposed constitution directs to no mode, in which the deficiencies of states on former requisitions, are to be collected, but seems to hold out the idea, that we are to start anew, and all past payments be forgotten. It is natural to expect, that selfish motives will have too powerful an influence on men[']s minds, and that too often, they will shut the eyes of a people to their best and true interest. The people of those states have been persuaded to believe, that this new constitution will relieve them from the burden of taxes, by providing for all the exigencies of the union, by duties which can be raised only in the neighbouring states. When they come to be convinced, that this promise is a mere delusion, as they assuredly will, by finding the continental tax-gatherer knocking at their doors, if not before, they will be among the first to urge amendments, and perhaps the most violent to obtain them. But nothwithstanding the local prejudices which operate upon the people of these states, a considerable part of them wish for amendments. It is not to be doubted, that a considerable majority of the people of Connecticut wish for them, and many in Jersey have the same desires, and their numbers are increasing: It cannot be disputed, that amendments would accord with the sentiments of a great majority in Massachusetts, or that they would be agreeable to the greater part of the people of Pennsylvania: There is no reason to doubt but that they would be agreeable to Delaware and Georgia—If then, the states who have already ratified the constitution, are desirous to have alterations made in it,

what reason can be assigned why they should not cordially meet with overtures for that purpose from any state, and concur in appointing a convention to effect it? Mankind are easily induced to fall upon measures to obtain an object agreeable to them. In this case, the states would not only be moved by this universal principle of human nature, but by the strong and powerful motive of uniting all the states under a form of government agreeable to them.

6.11.21 I shall now dismiss the consideration of objections made to attempting alterations previous to the adoption of the plan, but before I close, I beg your indulgence, while I make some remarks on the splendid advantages, which the advocates for this system say are to be derived from it.—Hope and fear are two of the most active principles of our nature: We have considered how the latter is addressed on this occasion, and with how little reason: It will appear that the promises it makes, are as little to be relied upon, as its threatenings. We are amused with the fair prospects that are to open, when this government is put into operation—Agriculture is to flourish, and our fields to yield an hundred fold—Commerce is to expand her wings, and bear our productions to all the ports in the world—Money is to pour into our country through every channel—Arts and manufactures are to rear their heads, and every mecanic find full employ—Those who are in debt, are to find easy means to procure money to pay them—Public burdens and taxes are to be lightened, and yet all our public debts are soon to be discharged.—With such vain and delusive hopes are the minds of many honest and well meaning people fed, and by these means are they led inconsiderately to contend for a government, which is made to promise what it cannot perform; while their minds are diverted from contemplating its true nature, or considering whether it will not endanger their liberties, and work oppression.

6.11.22 Far be it from me to object to granting the general government the power of regulating trade, and of laying imposts and duties for that purpose, as well as for raising a revenue: But it is as far from me to flatter people with hopes of benefits to be derived from such a change in our government, which can never be realized. Some advantages may accrue from vesting in one general government, the right to regulate commerce, but it is a vain delusion to expect any thing like what is promised. The truth is, this country buys more than it sells: It imports more than it exports. There are too many merchants in proportion to the farmers and manufacturers. Until these defects are remedied, no government can relieve us. Common sense dictates, that if a man buys more than he sells, he will remain in debt; the same is true of a country.—And as long as this country imports more goods than she exports—the overplus must be paid for in money or not paid at all. These few remarks may convince us, that the radical remedy for the scarcity of cash is frugality and industry. Earn much and spend little, and you will be

enabled to pay your debts, and have money in your pockets; and if you do not follow this advice, no government that can be framed, will relieve you.[20]

6.11.23 As to the idea of being relieved from taxes by this government, it is an affront to common sense, to advance it. There is no complaint made against the present confederation more justly founded than this, that it is incompetent to provide the means to discharge our national debt, and to support the national government. Its inefficacy to these purposes, which was early seen and felt, was the first thing that suggested the necessity of changing the government; other things, it is true, were afterwards found to require alterations; but this was the most important, and accordingly we find, that while in some other things the powers of this government seem to be in some measure limitted, on the subject of raising money, no bounds are set to it. It is authorised to raise money to any amount, and in any way it pleases. If then, the capital embarrassment in our present government arises from the want of money, and this constitution effectually authorises the raising of it, how are the taxes to be lessened by it? Certainly money can only be raised by taxes of some kind or other; it must be got either by additional impositions on trade, by excise, or by direct taxes, or what is more probable, by all together. In either way, it amounts to the same thing, and the position is clear, that as the necessities of the nation require more money than is now raised, the taxes must be enhanced. This you ought to know, and prepare yourself to submit to.—Besides, how is it possible that the taxes can be decreased when the expences of your government will be greatly advanced? It does not require any great skill in politics, or ability at calculation to shew, that the new government will cost more money to administer it, than the present. I shall not descend to an estimate of the cost of a federal town, the salaries of the president, vice-president, judges, and other great officers of state, nor calculate the amount of the pay the legislature will vote themselves, or the salaries that will be paid the innumerable revenue and subordinate officers. The bare mention of these things is sufficient to convince you, that the new government will be vastly more expensive than the old: And how is the money to answer these purposes to be obtained? It is obvious, it must be taken out of the pockets of the people, by taxes, in some mode or other.

6.11.24 Having remarked upon the arguments which have been advanced, to induce you to accede to this government, without amendments, and I trust refuted them, suffer me to close with an address dedicated by the affection of a brother, and the honest zeal of a lover of his country.

Friends, countrymen, and fellow citizens,

6.11.25 The present is the most important crisis at which you ever have arrived. You have before you a question big with consequences, unutterably important to yourselves, to your children, to generations yet unborn, to the cause

of liberty and of mankind; every motive of religion and virtue, of private happiness and public good, of honour and dignity, should urge you to consider cooly and determine wisely.

6.11.26 Almost all the governments that have arisen among mankind, have sprung from force and violence. The records of history inform us of none that have been the result of cool and dispassionate reason and reflection: It is reserved for this favoured country to exhibit to mankind the first example.—This opportunity is now given us, and we are to exercise our rights in the choice of persons to represent us in convention, to deliberate and determine upon the constitution proposed: It will be to our everlasting disgrace to be indifferent on such a subject, for it is impossible, we can contemplate any thing that relates to the affairs of this life of half the importance.

6.11.27 You have heard that both sides on this great question, agree, that there are in it great defects; yet the one side tell you, choose such men as will adopt it, and then amend it—while the other say, amend previous to its adoption.—I have stated to you my reasons for the latter, and I think they are unanswerable.—Consider you the common people, the yeomanry of the country, for to such I principally address myself, you are to be the principal losers, if the constitution should prove oppressive. When a tyranny is established, there are always masters as well as slaves; the great and the well-born are generally the former, and the middling class the latter—Attempts have been made, and will be repeated, to alarm you with the fear of consequences; but reflect, there are consequences on both sides, and none can be apprehended more dreadful, than entailing on ourselves and posterity a government which will raise a few to the height of human greatness and wealth, while it will depress the many to the extreme of poverty and wretchedness. Consequences are under the controul of that all-wise and all-powerful being, whose providence directs the affairs of men: Our part is to act right, and we may then have confidence that the consequences will be favourable. The path in which you should walk is plain and open before you; be united as one man, and direct your choice to such men as have been uniform in their opposition to the proposed system in its present form, or without proper alterations: In men of this description you have reason to place confidence, while on the other hand, you have just cause to distrust those who urge the adoption of a bad constitution, under the delusive expectation of making amendments after it is acceded to. Your jealousy of such characters should be the more excited, when you consider that the advocates for the constitution have shifted their ground. When men are uniform in their opinions, it affords evidence that they are sincere: When they are shifting, it gives reason to believe, they do not change from conviction. It must be recollected, that when this plan was first announced to the public, its supporters cried it up as the most perfect production of human wisdom: It was represented either as having no defects, or if it had, they were so trifling and inconsiderable, that they served only, as the shades in a

fine picture, to set off the piece to the greater advantage. One gentleman in Philadelphia went so far, in the ardour of his enthusiasm in its favour, as to pronounce, that the men who formed it were as really under the guidance of Divine Revelation, as was Moses, the Jewish lawgiver.[21] Their language is now changed; the question has been discussed; the objections to the plan ably stated, and they are admitted to be unanswerable. The same men who held it almost perfect, now admit it is very imperfect; that it is necessary it should be amended. The only question between us, is simply this: Shall we accede to a bad constitution, under the uncertain prospect of getting it amended, after we have received it, or shall we amend it before we adopt it? Common sense will point out which is the most rational, which is the most secure line of conduct. May heaven inspire you with wisdom, union, moderation and firmness, and give you hearts to make a proper estimate of your invaluable privileges, and preserve them to you, to be transmitted to your posterity unimpaired, and may they be maintained in this our country, while Sun and Moon endure.

A Plebeian.

POSTSCRIPT.

6.11.28 Since the foregoing pages have been put to the press, a pamphlet has appeared, entitled, "An address to the people of the state of New-York, on the subject of the new constitution, &c."[22] Upon a cursory examination of this performance (for I have not had leisure to give it more than a cursory examination) it appears to contain little more than declamation and observations that have been often repeated by the advocates of the new constitution.

An attentive reader will readily perceive, that almost every thing deserving the name of an argument in this publication, has received consideration, and, I trust, a satisfactory answer in the preceding remarks, so far as they apply to prove the necessity of an immediate adoption of the plan, without amendments.

I shall therefore only beg the patience of my readers, while I make a few very brief remarks on this piece.

6.11.29 The author introduces his observations with a short history of the revolution, and of the establishment of the present existing federal government. He draws a frightful picture of our condition under the present confederation. The whole of what he says on that head, stripped of its artificial colouring, amounts to this, that the existing system is rather recommendatory than coercive, or that Congress have not, in most cases, the power of enforcing their own resolves. This he calls "a new and wonderful system."[23] However "wonderful" it may seem, it certainly is not "new." For most of the *federal governments* that have been in the world, have been of the same nature.—The United Netherlands are governed on the same

plan. There are other governments also now existing, which are in a similar condition with our's, with regard to several particulars, on account of which this author denominates it "new and wonderful."—The king of Great-Britain "may make war, but has not power to raise money to carry it on." He may borrow money, but is without the means of repayment," &c.[24] For these he is dependent on his parliament. But it is needless to add on this head, because it is admitted that the powers of the general government ought to be increased in several of the particulars this author instances. But these things are mentioned to shew, that the outcry made against the confederation, as being a system new, unheard of, and absurd, is really without foundation.

6.11.30 The author proceeds to depicture our present condition in the high-wrought strains common to his party.—I shall add nothing to what I have said on this subject in the former part of this pamphlet, but will only observe, that his imputing our being kept out of the possession of the western posts, and our want of peace with the Algerines, to the defects in our present government, is much easier said than proved.[25] The British keep possession of these posts, because it subserves their interest, and probably will do so, until they perceive that we have gathered strength and resources sufficient to assert our rights with the sword. Let our government be what it will, this cannot be done without time and patience. In the present exhausted situation of the country, it would be madness in us, had we ever so perfect a government, to commence a war for the recovery of these posts.—With regard to the Algerines, there are but two ways in which their ravages can be prevented. The one is, by a successful war against them, and the other is by treaty. The powers of Congress under the confederation are completely competent either to declare war against them, or to form treaties. Money, it is true, is necessary to do both these. This only brings us to this conclusion, that the great defect in our present government, is the want of powers to provide money for the public exigencies. I am willing to grant *reasonable* powers on this score, but not unlimited ones; commercial treaties may be made under the present powers of Congress. I am persuaded we flatter ourselves with advantages which will result from them, that will never be realized. I know of no benefits that we receive from any that have yet been formed.

6.11.31 This author tells us, "it is not his design to investigate the merits of the plan, nor of the objections made to it."[26] It is well he did not undertake it, for if he had, from the specimen he has given, the cause he assumes would not have probably gained much strength by it.

He however takes notice of two or three of the many objections brought against the plan.

"We are told, (says he) among other strange things, that the liberty of the press is left insecure by the proposed constitution, and yet that constitution says neither more nor less about it, than the constitution of the state of

New-York does. We are told it deprives us of trial by jury, whereas the fact is, that it expressly secures it in certain cases, and takes it away in none, &c. it is absurd to construe the silence of this, or of our own constitution relative to a great number of our rights into a total extinction of them; silence and a blank paper neither grant nor take away anything."[27]

It may be a strange thing to this author to hear the people of America anxious for the preservation of their rights, but those who understand the true principles of liberty, are no strangers to their importance. The man who supposes the constitution, in any part of it, is like a blank piece of paper, has very erroneous ideas of it. He may be assured every clause has a meaning, and many of them such extensive meaning, as would take a volume to unfold. The suggestion, that the liberty of the press is secure, because it is not in express words spoken of in the constitution, and that the trial by jury is not taken away, because it is not said in so many words and letters it is so, is puerile and unworthy of a man who pretends to reason. We contend, that by the indefinite powers granted to the general government, the liberty of the press may be restricted by duties, &c. and therefore the constitution ought to have stipulated for its freedom. The trial by jury, in all civil cases is left at the discretion of the general government, except in the supreme court on the appellate jurisdiction, and in this I affirm it is taken away, not by express words, but by fair and legitimate construction and inference; for the supreme court have expressly given them an appellate jurisdiction, in every case to which their powers extend (with two or three exceptions) both as to *law and fact*. The court are the judges; every man in the country, who has served as a juror, knows, that there is a distinction between the court and the jury, and that the lawyers in their pleading, make the distinction. If the court, upon appeals, are to determine both the law and the fact, there is no room for a jury, and the right of trial in this mode is taken away. 6.11.32

The author manifests equal levity in referring to the constitution of this state, to shew that it was useless to stipulate for the liberty of the press, or to insert a bill of rights in the constitution. With regard to the first, it is perhaps an imperfection in our constitution that the liberty of the press is not expressly reserved; but still there was not equal necessity of making this reservation in our State as in the general Constitution, for the common and statute law of England, and the laws of the colony are established, in which this privilege is fully defined and secured. It is true, a bill of rights is not prefixed to our constitution, as it is in that of some of the states; but still this author knows, that many essential rights are reserved in the body of it; and I will promise, that every opposer of this system will be satisfied, if the stipulations that they contend for are agreed to, whether they are prefixed, affixed, or inserted in the body of the constitution, and that they will not contend which way this is done, if it be but done. I shall add but one remark, and that is upon the hackneyed argument introduced by the author, drawn from the character and ability of the framers of the new constitution.[28] The 6.11.33

favourers of this system are not very prudent in bringing this forward. It provokes to an investigation of characters, which is an inviduous task. I do not wish to detract from their merits, but I will venture to affirm, that twenty assemblies of equal number might be collected, equally respectable both in point of ability, integrity, and patriotism. Some of the characters which compose it I revere; others I consider as of small consequence, and a number are suspected of being great public defaulters, and to have been guilty of notorious peculation and fraud, with regard to public property in the hour of our distress. I will not descend to personalities, nor would I have said so much on the subject, had it not been in self defence. Let the constitution stand on its own merits. If it be good, it stands not in need of great men's names to support it. If it be bad, their names ought not to sanction it.

1. Acts 26:28, 29.

2. Cf. *The Federalist* no. 27, 172–74; Federal Farmer IV, 2.8.58 n. 44.

3. This is the Anti-Federalist counterpart to the Federalist maxim that in granting power to government the means should be proportionate to the end. See *The Federalist* nos. 23 and 31; Brutus VI–VII, 2.9.63–91.

4. The numbering is not continued.

5. See *The Federalist* no. 15; Centinel IV, 2.7.91 n. 43.

6. For similar views see Centinel I, 2.7.26; Brutus, Jr. 6.3.9 ff.; Henry 5.16.2–4; Citizen 6.5.4–5.

7. "That we have to encounter embarrassments, and are distressed for want of money, is undoubted; but causes which could not be controlled by any system of government, have principally contributed to embarrass and distress us. On the termination of war, which operated to exhaust our resources, we launched into every species of extravagance, and imported European goods to an amount far beyond our ability to pay. The difficulties which arose from this and several other causes, equally uninfluenced by the system of government, were without hesitation attributed to its want of energy." Hon. John Lansing, New York ratifying convention, Elliot II, 218; see also John Williams, ibid. 240–41. See 6.11.21–22. For examples of the Anti-Federalist argument that American problems will be solved by industry and frugality, not new constitutions, see Candidus 4.9.18 n. 6.

8. For arguments to this effect see references Centinel IV, 2.7.91 n. 47. Cf. the different premises on which Publius chooses to treat this subject in *The Federalist* nos. 6–8.

9. See Federal Farmer I, 2.8.1 and passim; Brutus I, 2.9.1 ff; Federal Republican 3.6.25; Philadelphiensis IX, 3.9.60; Pennsylvania Convention Minority 3.11.13; [Pennsylvania] Farmer 3.14.6 ff; Agrippa III, 4.6.11; IV, 4.6.16–17; VI, 4.6.22; Republican Federalist 4.13.10; Impartial Examiner 5.14.13; Mason 5.17.1; Brutus, Jr. 6.3.9–11.

10. Elliot II, 177. See also Ford, *Essays* 288 (Caesar).

11. References to the main Anti-Federalist discussions of representation are collected in Federal Farmer II, 2.8.15 n. 11.

12. See for example Brutus V–VI, 2.9.55–82; Centinel IV–V, 2.7.79–101; Henry 5.16.15–16.

13. Among the more prominent examples are Brutus XI, 2.9.130 ff; Federal Farmer II, 2.8.19; IV, 2.8.54–55; Old Whig III, 3.3.16; [Maryland] Farmer IV, 5.1.63 ff; Lee 5.6.2–3; Impartial Examiner 5.14.9; Cincinnatus I, 6.1.7; II–III, 6.1.13–20; Countryman 6.7.2.

14. See Vox Populi 4.4.2–8 and n. 1.

15. See for example Mason 2.2.8–10; Centinel I, 2.7.9; Brutus XVI, 2.9.202–4; Officer of the Late Continental Army 3.8.3; Pennsylvania Convention Minority 3.11.35–37; Brutus [Virginia] 5.15.1; Cincinnatus IV, 6.1.26 ff; Clinton 6.13.

16. See Federal Farmer VIII, 2.8.110 n. 72; see also Centinel I, 2.9.1–27.
17. See Brutus VIII, 2.9.96–97 and n. 66.
18. For the Pennsylvania Convention Minority, see 3.11; for the amendments proposed by the Massachusetts convention see Elliot II, 176–77.
19. In the Connecticut debates, Oliver Ellsworth complained: "The state of New York raises 60 or £80,000 a year by impost. Connecticut consumes about one third of the goods upon which this impost is laid, and consequently pays one third of this sum to New York. If we import by the medium of Massachusetts, she has an impost, and to her we pay a tribute." Elliot II, 189; argument repeated, 192.
20. See above, n. 7.
21. Benjamin Rush asserted in his last speech before the Pennsylvania ratifying convention "that he as much believed the hand of God was employed in this work, as that God had divided the Red Sea to give a passage to the children of Israel, or had fulminated the ten commandments from Mount Sinai!" McMaster and Stone 420. Other Federalists made more or less explicit suggestions to similar effect. See Cassius, Ford, *Essays* 20; Caesar, Ford, *Essays* 228; A Republican (Charles Pinckney), Ford, *Essays* 412; Benjamin Franklin's letter to the *Federal Gazette* 8 April 1788, *Documentary History of the Constitution* IV, 571. See the satire on this claim by Democritus in the *New York Journal* 28 December 1787.
22. A Citizen of New York [John Jay], "An Address to the People of the State of New York on the Subject of the Constitution Agreed upon at Philadelphia . . . " 1788, Ford, *Pamphlets* 67–86.
23. "It is a pity that the expectations which actuated the authors of the existing confederation, neither have nor can be realized:—accustomed to see and admire the glorious spirit which moved all ranks of people in the most gloomy moments of the war, observing their steadfast attachment to Union, and the wisdom they so often manifested both in choosing and confiding in their rulers, those gentlemen were led to flatter themselves that the people of America only required to know what ought to be done, to do it. This amiable mistake induced them to institute a national government in such a manner, as though very fit to give advice, was yet destitute of power, and so constructed as to be very unfit to be trusted with it. They seem not to have been sensible that more advice is a sad substitute for laws; nor to have recollected that the advice even of the allwise and best of Beings, has been always disregarded by a great majority of all the men that ever lived." Ford, *Pamphlets* 71.
24. In these words, A Citizen of New York had characterized the Congress under the Articles of Confederation, which was, in contrast to the British king, the whole of the government. Ford, *Pamphlets* 72.
25. Ford, *Pamphlets* 73.
26. Ibid. 77.
27. Ibid. 76.
28. Ibid. 78–80.

Speeches by Melancton Smith

Delivered in the Course of Debate by the Convention of the State of New York on the Adoption of the Federal Constitution

June 1788

The debates of the New York ratifying convention rival those in Virginia for the excellence of their discussion of the Constitution. Perhaps the questions were publicly *debated* more fully here than anywhere else, and in none of the conventions is the essential question of representation so thoroughly discussed on both sides. On the Federalist side the main argument was carried, easily and brilliantly, by Alexander Hamilton. He was met by the solid, often deep, and scarcely less able objections of Melancton Smith. A prominent businessman of New York City and Poughkeepsie, Smith had served in the first Provincial Congress of New York, in the Continental Congress, and as sheriff of Dutchess County.[1]

The five speeches of Smith printed here fall into three parts: the constitution of the House of Representatives, the constitution of the Senate, and the congressional power to tax. The speeches were given on 20, 21, 23, 25 and 27 June, and are taken here from the original 1788 publication.[2]

Smith begins with a series of general introductory remarks, including an affirmation of attachment to both Union and liberty (6.12.1–2), an acknowledgment of the defects of the Articles of Confederation (6.12.3–4), a reemphasis of his opponent's admission that the new Constitution was a radical change in the Articles (6.12.5–6), and a warning against innovations, especially in a government resting on the opinion of the people (6.12.7). He then proceeds to his objections to the constitution of the House of Representatives, especially that the representation is too small. This leads Smith into a discussion of the origin and true principles of representation, which is one of the major Anti-Federalist statements on this subject (see esp. 6.12.8–25). It is interesting and important to compare Smith's theoretical aim (a representative body that "resembles" the body of the people) and his practical aim (a representative body that will include a due proportion of the middling classes, along with the natural aristocracy, which will inevitably make up a large part of the representation). Like Lee, Smith is concerned that the spirit of liberty, on which the Federalists profess to rely, should be

supported and maintained by congenial laws. And, like Lee, Smith concedes that an adequate representation is not possible in any government for the whole United States and that therefore, while the representation must be improved, the powers of the federal government must be carefully limited and checked.

In his discussion of the Senate, Smith admits the need for such a body to stabilize the government; but he insists that a system of rotation and recall is both feasible and consistent with republican principles and that the Federalists exaggerate the danger of state influence (6.12.27–32). It is interesting, in view of the previous argument on representation, that here Smith relies on the argument that the state legislatures are not mere reflectors of the whims of the people but "select bodies" (6.12.30).

The last speech (6.12.36–40) contains Smith's major argument regarding the unlimited power of federal taxation. Here Smith is supporting a limitation on the federal taxing power, without which he believes that the states will ultimately be destroyed as significant parts of the system. Against the Hamiltonian argument that the means must be proportionate to the end and that the end of the federal government is unlimitable, Smith attempts to set the substantial accomplishments of the state and federal governments under the Confederation and the imprudence of radical change.

1. There is no biography of Smith. See Julian P. Boyd, "Melancton Smith," *Dictionary of American Biography* XVII, 319–20. Smith is traditionally identified as the author of the Plebeian essays, see 6.11.

2. *The Debates and Proceedings of the Convention of the State of New York,* Assembled at Poughkeepsie, on the 17th June 1788 (New York: Francis Childs, 1788). Footnote references to these debates are made, as usual, to the more accessible Elliot.

[*The debate having been opened by Chancellor Robert R. Livingston and John Lansing, on the 19th and 20th of June 1788, the Convention turned, at Melancton Smith's suggestion, to a paragraph-by-paragraph consideration of the proposed Constitution. Article I, section 1, was read and passed by without discussion. Section 2, providing for the constitution of the House of Representatives, was discussed at length. The discussion consisted largely in a debate between Smith and Alexander Hamilton, a debate which is one of the high points of the controversy over the Constitution.*]

20 June 1788

Mr. *Smith* again rose—He most heartily concurred in sentiment with the honorable gentleman who opened the debate yesterday, that the discussion of the important question now before them ought to be entered on with a 6.12.1

spirit of patriotism; with minds open to conviction; with a determination to form opinions only on the merits of the question, from those evidences which should appear in the course of the investigation.

How far the general observations made by the honorable gentleman accorded with these principles, he left to the House to determine.

It was not, he said, his intention to follow that gentleman through all his remarks—he should only observe, that what had been advanced did not appear to him to apply to the subject under consideration.

6.12.2 He was as strongly impressed with the necessity of a Union, as any one could be: He would seek it with as much ardor. In the discussion of this subject, he was disposed to make every reasonable concession, and indeed to sacrifice every thing for a Union, except the liberties of his country, than which he could contemplate no greater misfortune.[1] But he hoped we were not reduced to the necessity of sacrificing or even endangering our liberties to preserve the Union. If that was the case, the alternative was dreadful. But he would not now say that the adoption of the Constitution would endanger our liberties; because that was the point to be debated, and the premises should be laid down previously to the drawing of any conclusion. He wished that all observations might be confined to this point; and that declamation and appeals to the passions might be omitted.

6.12.3 Why, said he, are we told of our weaknesses?[2] Of the defenceless condition of the southern parts of our state? Of the exposed situation of our capital? Of Long-Island surrounded by water, and exposed to the incursions of our neighbours in Connecticut? Of Vermont having separated from us and assumed the powers of a distinct government; And of the North-West part of our state being in the hands of a foreign enemy?—Why are we to be alarmed with apprehensions that the Eastern states are inimical, and disinclined to form alliances with us? He was sorry to find that such suspicions were entertained. He believed that no such disposition existed in the Eastern states. Surely it could not be supposed that those states would make war upon us for exercising the rights of freemen, deliberating and judging for ourselves, on a subject the most interesting that ever came before any assembly. If a war with our neighbour was to be the result of not acceding, there was no use in debating here; we had better receive their dictates, if we were unable to resist them. The defects of the Old Confederation needed as little proof as the necessity of an Union: But there was no proof in all this, that the proposed Constitution was a good one. Defective as the Old Confederation is, he said, no one could deny but it was possible we might have a worse government. But the question was not whether the present Confederation be a bad one; but whether the proposed Constitution be a good one.[3]

6.12.4 It had been observed, that no examples of Federal Republics had succeeded.[4] It was true that the ancient confederated Republics were all destroyed—so were those which were not confederated; and all antient

Governments of every form had shared the same fate. Holland had undoubtedly experienced many evils from the defects in her government; but with all these defects, she yet existed; she had under her Confederacy made a principal figure among the nations of Europe, and he believed few countries had experienced a greater share of internal peace and prosperity. The Germanic Confederacy was not the most pertinent example to produce on this occasion:—Among a number of absolute Princes who consider their subjects as their property, whose will is law, and to whose ambition there are no bounds, it was no difficult task to discover other causes from which the convulsions in that country rose, than the defects of their Confederation. Whether a Confederacy of States under any form be a practicable Government, was a question to be discussed in the course of investigating this Constitution.

He was pleased that thus early in the debate, the honorable gentleman had himself shewn, that the intent of the Constitution was not a Confederacy, but a reduction of all the states into a consolidated government.[5] He hoped the gentleman would be complaisant enough to exchange names with those who disliked the Constitution, as it appeared from his own concession that they were Federalists, and those who advocated it Anti-Federalists.[6] He begged leave, however, to remind the gentleman, that Montesquieu, with all the examples of modern and antient Republics in view, gives it as his opinion, that a confederated Republic has all the internal advantages of a Republic, with the external force of a Monarchical Government.[7] He was happy to find an officer of such high rank recommending to the other officers of Government, and to those who are members of the Legislature, to be unbiassed by any motives of interest or state importance.[8] Fortunately for himself, he was out of the verge of temptations of this kind, not having the honor to hold any office under the state. But then he was exposed, in common with other gentlemen of the Convention, to another temptation, against which he thought it necessary that we should be equally guarded:—If, said he, this constitution is adopted, there will be a number of honorable and lucrative offices to be filled, and we ought to be cautious lest an expectancy of some of them should influence us to adopt without due consideration. 6.12.5

We may wander, said he, in the fields of fancy without end, and gather flowers as we go: It may be entertaining—but it is of little service to the discovery of truth:—We may on one side compare the scheme advocated by our opponents to *golden images, with feet part of iron and part of clay;* and on the other, *to a beast dreadful and terrible, and strong exceedingly, having great iron teeth, which devours, breaks in pieces, and stamps the residue with his feet:* And after all, said he, we shall find that both these allusions are taken from the same *vision;* and their true meaning must be discovered by sober reasoning. 6.12.6

He would agree with the honorable gentleman, that perfection in any 6.12.7

system of government was not to be looked for. If that was the object, the debates on the one before them might soon be closed.—But he would observe that this observation applied with equal force against changing any systems—especially against material and radical changes.—Fickleness and inconstancy, he said, was characteristic of a free people; and in framing a Constitution for them, it was, perhaps the most difficult thing to correct this spirit, and guard against the evil effects of it—he was persuaded it could not be altogether prevented without destroying their freedom—it would be like attempting to correct a small indisposition in the habit of the body, by fixing the patient in a confirmed consumption.—This fickle and inconstant spirit was the more dangerous in bringing about changes in the government.[9] The instance that had been adduced by the gentleman from sacred history, was an example in point to prove this: The nation of Israel having received a form of civil government from Heaven, enjoyed it for a considerable period; but at length labouring under pressures, which were brought upon them by their own misconduct and imprudence, instead of imputing their misfortunes to their true causes, and making a proper improvement of their calamities, by a correction of their errors, they imputed them to a defect in their constitution; they rejected their Divine Ruler, and asked Samuel to make them a King to judge them, like other nations. Samuel was grieved at their folly; but still, by the command of God, he hearkened to their voice; tho' not until he had solemnly declared unto them the manner in which the King should reign over them. "This, (says Samuel) shall be the manner of the King that shall reign over you. He will take your sons and appoint them for himself, for his chariots, and for his horsemen, and some shall run before his chariots; and he will appoint him captains over thousands, and captains over fifties, and will set them to ear his ground, and to reap his harvest, and to make his instruments of war, and instruments of his chariots. And he will take your daughters to be confectionaries, and to be cooks, and to be bakers. And he will take your fields, and your vine yards, and your olive yards, even the best of them, and give them to his servants. And he will take the tenth of your seed, and of your vineyards, and give to his officers and to his servants. And he will take your men servants and your maid servants, and your goodliest young men, and your asses, and put them to his work. He will take the tenth of your sheep: And ye shall be his servants. And ye shall cry out in that day, because of your King which ye have chosen you; and the Lord will not hear you in that day."[10]—How far this was applicable to the subject he would not now say; it could be better judged of when they had gone through it.—On the whole he wished to take up this matter with candor and deliberation.

6.12.8 He would now proceed to state his objections to the clause just read, (section 2 of article I, clause 3.) His objections were comprised under three heads: 1st the rule of apportionment is unjust; 2d. there is no precise number fixed on below which the house shall not be reduced; 3d. it is inadequate. In

the first place the rule of apportionment of the representatives is to be according to the whole number of the white inhabitants, with three fifths of all others; that is in plain English, each state is to send Representatives in proportion to the number of freemen, and three fifths of the slaves it contains. He could not see any rule by which slaves are to be included in the ratio of representation: The principle of a representation, being that every free agent should be concerned in governing himself, it was absurd to give that power to a man who could not exercise it—slaves have no will of their own: The very operation of it was to give certain privileges to those people who were so wicked as to keep slaves. He knew it would be admitted that this rule of apportionment was founded on unjust principles, but that it was the result of accommodation; which he supposed we should be under the necessity of admitting, if we meant to be in union with the Southern States, though utterly repugnant to his feelings. In the second place, the number was not fixed by the Constitution, but left at the discretion of the Legislature; perhaps he was mistaken; it was his wish to be informed. He understood from the Constitution, that sixty-five Members were to compose the House of Representatives for three years; that after that time a census was to be taken, and the numbers to be ascertained by the Legislature on the following principles: 1st, they shall be apportioned to the respective States according to numbers; 2d, each State shall have one at least; 3d, they shall never exceed one to every thirty thousand. If this was the case, the first Congress that met might reduce the number below what it now is; a power inconsistent with every principle of a free government, to leave it to the discretion of the rulers to determine the number of the representatives of the people. There was no kind of security except in the integrity of the men who were entrusted; and if you have no other security, it is idle to contend about Constitutions. In the third place, supposing Congress should declare that there should be one representative for every thirty thousand of the people, in his opinion it would be incompetent to the great purposes of representation. It was, he said, the fundamental principle of a free government, that the people should make the laws by which they were to be governed: He who is controlled by another is a slave; and that government which is directed by the will of any one or a few, or any number less than is the will of the community, is a government for slaves.

The next point was, how was the will of the community to be expressed? 6.12.9
It was not possible for them to come together; the multitude would be too great: In order, therefore to provide against this inconvenience, the scheme of representation had been adopted, by which the people deputed others to represent them. Individuals entering into society became one body, and that body ought to be animated by one mind; and he conceived that every form of government should have that complexion. It was true that notwithstanding all the experience we had from others, it had not appeared that the experiment of representation had been fairly tried: there was something like

it in the ancient republics, in which, being of small extent, the people could easily meet together, though instead of deliberating, they only considered of those things which were submitted to them by their magistrates. In Great Britain representation had been carried much farther than in any government we knew of, except our own; but in that country it now had only a name. America was the only country, in which the first fair opportunity had been offered. When we were Colonies, our representation was better than any that was then known: Since the revolution we had advanced still nearer to perfection. He considered it as an object, of all others the most important, to have it fixed on its true principle; yet he was convinced that it was impracticable to have such a representation in a consolidated government. However, said he, we may approach a great way towards perfection by encreasing the representation and limiting the powers of Congress.[11] He considered that the great interests and liberties of the people could only be secured by the State Governments. He admitted, that if the new government was only confined to great national objects, it would be less exceptionable; but it extended to every thing dear to human nature. That this was the case could be proved without any long chain of reasoning:—for that power which had both the purse and the sword, had the government of the whole country, and might extend its powers to any and to every object. He had already observed, that by the true doctrine of representation, this principle was established—that the representative must be chosen by the free will of the majority of his constituents: It therefore followed that the representative should be chosen from small districts. This being admitted, he would ask, could 65 men, for 3,000,000, or 1 for 30,000, be chosen in this manner? Would they be possessed of the requisite information to make happy the great number of souls that were spread over this extensive country?—There was another objection to the clause: If great affairs of government were trusted to a few men, they would be more liable to corruption. Corruption, he knew, was unfashionable amongst us, but he supposed that Americans were like other men; and tho' they had hitherto displayed great virtues, still they were men; and therefore such steps should be taken as to prevent the possibility of corruption. We were now in that stage of society, in which we could deliberate with freedom;—how long it might continue, God only knew! Twenty years hence, perhaps, these maxims might become unfashionable; we already hear, said he, in all parts of the country, gentlemen ridiculing that spirit of patriotism and love of liberty, which carried us through all our difficulties in times of danger.—When patriotism was already nearly hooted out of society, ought we not to take some precautions against the progress of corruption?[12]

6.12.10 He had one more observation to make, to shew that the representation was insufficient—Government, he said, must rest for its execution, on the good opinion of the people, for if it was made in heaven, and had not the confidence of the people, it could not be executed:[13] that this was proved,

by the example given by the gentleman, of the Jewish theocracy. It must have a good setting out, or the instant it takes place there is an end of liberty. He believed that the inefficacy of the old Confederation, had arisen from that want of confidence; and this caused in a great degree by the continual declamation of gentlemen of importance against it from one end of the continent to the other, who had frequently compared it to a rope of sand. It had pervaded every class of citizens, and their misfortunes, the consequences of idleness and extravagance, were attributed to the defects of that system. At the close of the war, our country had been left in distress; and it was impossible that any government on earth could immediately retrieve it; it must be time and industry alone that could effect it. He said he would pursue these observations no further at present,—And concluded with making the following motion:

"*Resolved*, That it is proper that the number of representatives be fixed at the rate of one for every twenty thousand inhabitants, to be ascertained on the principles mentioned in the second section of the first article of the Constitution, until they amount to three hundred; after which they shall be apportioned among the States, in proportion to the number of inhabitants of the States respectively: And that before the first enumeration shall be made, the several States shall be entitled to chuse double the number of representatives for that purpose, mentioned in the Constitution."

21 June 1788

Mr. *M. Smith*. I had the honor yesterday of submitting an amendment to the clause under consideration, with some observations in support of it. I hope I shall be indulged in making some additional remarks in reply to what has been offered by the honorable gentleman from New-York [Alexander Hamilton]. 6.12.11

He has taken up much time in endeavouring to prove that the great defect in the old confederation was, that it operated upon states instead of individuals. It is needless to dispute concerning points on which we do not disagree: It is admitted that the powers of the general government ought to operate upon individuals to a certain degree. How far the powers should extend, and in what cases to individuals is the question. As the different parts of the system will come into view in the course of our investigation, an opportunity will be afforded to consider this question; I wish at present to confine myself to the subject immediately under the consideration of the committee. I shall make no reply to the arguments offered by the hon. gentleman to justify the rule of apportionment fixed by this clause: For though I am confident they might be easily refuted, yet I am persuaded we

must yield this point, in accommodation to the southern states. The amendment therefore proposes no alteration to the clause in this respect.

6.12.12 The honorable gentleman says, that the clause by obvious construction fixes the representation.[14] I wish not to torture words or sentences. I perceive no such obvious construction. I see clearly, that on the one hand the representatives cannot exceed one for thirty thousand inhabitants; and on the other, that whatever larger number of inhabitants may be taken for the rule of apportionment, each state shall be entitled to send one representative. Every thing else appears to me in the discretion of the legislature. If there be any other limitation, it is certainly implied. Matters of such moment should not be left to doubtful construction. It is urged that the number of representatives will be fixed at one for 30,000, because it will be the interest of the larger states to do it.[15] I cannot discern the force of this argument.—To me it appears clear, that the relative weight of influence of the different states will be the same, with the number of representatives at 65 as at 600, and that of the individual members greater. For each member's share of power will decrease as the number of the house of representatives increases.—If therefore this maxim be true, that men are unwilling to relinquish powers which they once possess, we are not to expect that the house of representatives will be inclined to enlarge the numbers. The same motive will operate to influence the president and senate to oppose the increase of the number of representatives; for in proportion as the weight of the house of representatives is augmented, they will feel their own diminished: It is therefore of the highest importance that a suitable number of representatives should be established by the constitution.

6.12.13 It has been observed by an honorable member, that the eastern states insisted upon a small representation on the principles of œconomy.—This argument must have no weight in the mind of a considerate person. The difference of expence, between supporting a house of representatives sufficiently numerous, and the present proposed one would be about 20 or 30,000 dollars per annum. The man who would seriously object to this expence, to secure his liberties, does not deserve to enjoy them. Besides, by increasing the number of representatives, we open a door for the admission of the substantial yeomanry of your country; who, being possessed of the habits of œconomy, will be cautious of imprudent expenditures, by which means a much greater saving will be made of public money than is sufficient to support them. A reduction of the number of the state legislatures might also be made, by which means there might be a saving of expence much more than sufficient for the purpose of supporting the general legislature.—For, as under this system all the powers of legislation relating to our general concerns, are vested in the general government, the powers of the state legislatures will be so curtailed, as to render it less necessary to have them so numerous as they now are.

6.12.14 But an honorable gentleman has observed that it is a problem that cannot

be solved, what the proper number is which ought to compose the house of representatives, and calls upon me to fix the number. I admit this is a question that will not admit of a solution with mathematical certainty—few political questions will—yet we may determine with certainty that certain numbers are too small or too large. We may be sure that ten is too small and a thousand too large a number—every one will allow that the first number is too small to possess the sentiments, be influenced by the interests of the people, or secure against corruption: A thousand would be too numerous to be capable of deliberating.

6.12.15 To determine whether the number of representatives proposed by this Constitution is sufficient, it is proper to examine the qualifications which this house ought to possess, in order to exercise their powers discreetly for the happiness of the people. The idea that naturally suggests itself to our minds, when we speak of representatives is, that they resemble those they represent; they should be a true picture of the people; possess the knowledge of their circumstances and their wants; sympathize in all their distresses, and be disposed to seek their true interests.[16] The knowledge necessary for the representatives of a free people, not only comprehends extensive political and commercial information, such as is acquired by men of refined education, who have leisure to attain to high degrees of improvement, but it should also comprehend that kind of acquaintance with the common concerns and occupations of the people, which men of the middling class of life are in general much better competent to, than those of a superior class. To understand the true commercial interests of a country, not only requires just ideas of the general commerce of the world, but also, and principally, a knowledge of the productions of your own country and their value, what your soil is capable of producing[,] the nature of your manufactures, and the capacity of the country to increase both. To exercise the power of laying taxes, duties and excises with discretion, requires something more than an acquaintance with the abstruse parts of the system of finance. It calls for a knowledge of the circumstances and ability of the people in general, a discernment how the burdens imposed will bear upon the different classes.

6.12.16 From these observations results this conclusion that the number of representatives should be so large, as that while it embraces men of the first class, it should admit those of the middling class of life. I am convinced that this Government is so constituted, that the representatives will generally be composed of the first class in the community, which I shall distinguish by the name of the natural aristocracy of the country.[17] I do not mean to give offence by using this term. I am sensible this idea is treated by many gentlemen as chimerical. I shall be asked what is meant by the natural aristocracy—and told that no such distinction of classes of men exists among us. It is true it is our singular felicity that we have no legal or hereditary distinctions of this kind; but still there are real differences: Every

society naturally divides itself into classes. The author of nature has bestowed on some greater capacities than on others—birth, education, talents and wealth, create distinctions among men as visible and of as much influence as titles, stars and garters. In every society, men of this class will command a superior degree of respect—and if the government is so constituted as to admit but few to exercise the powers of it, it will, according to the natural course of things, be in their hands. Men in the middling class, who are qualified as representatives, will not be so anxious to be chosen as those of the first. When the number is so small the office will be highly elevated and distinguished—the stile in which the members live will probably be high—circumstances of this kind, will render the place of a representative not a desirable one to sensible, substantial men, who have been used to walk in the plain and frugal paths of life.

6.12.17 Besides, the influence of the great will generally enable them to succeed in elections—it will be difficult to combine a district of country containing 30 or 40,000 inhabitants, frame your election laws as you please, in any one character; unless it be in one of conspicuous, military, popular, civil or legal talents. The great easily form associations; the poor and middling class form them with difficulty. If the elections be by plurality, as probably will be the case in this state, it is almost certain, none but the great will be chosen—for they easily unite their interest—The common people will divide, and their divisions will be promoted by the others. There will be scarcely a chance of their uniting, in any other but some great man, unless in some popular demagogue, who will probably be destitute of principle. A substantial yeoman of sense and discernment, will hardly ever be chosen. From these remarks it appears that the government will fall into the hands of the few and the great. This will be a government of oppression. I do not mean to declaim against the great, and charge them indiscriminately with want of principle and honesty.—The same passions and prejudices govern all men. The circumstances in which men are placed in a great measure give a cast to the human character. Those in middling circumstances, have less temptation—they are inclined by habit and the company with whom they associate, to set bounds to their passions and appetites—if this is not sufficient, the want of means to gratify them will be a restraint—they are obliged to employ their time in their respective callings—hence the substantial yeomanry of the country are more temperate, of better morals and less ambition than the great.[18] The latter do not feel for the poor and middling class; the reasons are obvious—they are not obliged to use the pains and labour to procure property as the other.—They feel not the inconveniences arising from the payment of small sums. The great consider themselves above the common people—entitled to more respect—do not associate with them—they fancy themselves to have a right of pre-eminence in every thing. In short, they possess the same feelings, and are under the influence of the same motives, as an hereditary nobility. I know the idea that

such a distinction exists in this country is ridiculed by some—But I am not the less apprehensive of danger from their influence on this account—Such distinctions exist all the world over—have been taken notice of by all writers on free government—and are founded in the nature of things. It has been the principal care of free governments to guard against the encroachments of the great. Common observation and experience prove the existence of such distinctions. Will any one say, that there does not exist in this country the pride of family, of wealth, of talents; and that they do not command influence and respect among the common people? Congress, in their address to the inhabitants of the province of Quebec, in 1775, state this distinction in the following forcible words quoted from the Marquis Beccaria. "In every human society, there is an essay continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence universally and equally."[19] We ought to guard against the government being placed in the hands of this class—They cannot have that sympathy with their constituents which is necessary to connect them closely to their interest: Being in the habit of profuse living, they will be profuse in the public expences. They find no difficulty in paying their taxes, and therefore do not feel public burthens: Besides if they govern, they will enjoy the emoluments of the government. The middling class, from their frugal habits, and feeling themselves the public burdens, will be careful how they increase them.

But I may be asked, would you exclude the first class in the community, 6.12.18
from any share in legislation? I answer by no means—they would be more dangerous out of power than in it—they would be factious—discontented and constantly disturbing the government—it would also be unjust—they have their liberties to protect as well as others—and the largest share of property. But my idea is, that the Constitution should be so framed as to admit this class, together with a sufficient number of the middling class to controul them. You will then combine the abilities and honesty of the community—a proper degree of information, and a disposition to pursue the public good. A representative body, composed principally of respectable yeomanry is the best possible security to liberty.—When the interest of this part of the community is pursued, the public good is pursued; because the body of every nation consists of this class. And because the interest of both the rich and the poor are involved in that of the middling class. No burden can be laid on the poor, but what will sensibly affect the middling class. Any law rendering property insecure, would be injurious to them.—When therefore this class in society pursue their own interest, they promote that of the public, for it is involved in it.

In so small a number of representatives, there is great danger from cor- 6.12.19
ruption and combination. A great politician has said that every man has his price:[20] I hope this is not true in all its extent—But I ask the gentlemen to

inform, what government there is, in which it has not been practised? Notwithstanding all that has been said of the defects in the Constitution of the antient Confederacies of the Grecian Republics, their destruction is to be imputed more to this cause than to any imperfection in their forms of government. This was the deadly poison that effected their dissolution. This is an extensive country, increasing in population and growing in consequence. Very many lucrative offices will be in the grant of the government, which will be the object of avarice and ambition. How easy will it be to gain over a sufficient number, in the bestowment of these offices, to promote the views and purposes of those who grant them! Foreign corruption is also to be guarded against. A system of corruption is known to be the system of government in Europe. It is practised without blushing. And we may lay it to our account it will be attempted amongst us. The most effectual as well as natural security against this, is a strong democratic branch in the legislature frequently chosen, including in it a number of the substantial, sensible yeomanry of the country. Does the house of representatives answer this description? I confess, to me they hardly wear the complexion of a democratic branch—they appear the mere shadow of representation. The whole number in both houses amounts to 91—Of these 46 make a quorum; and 24 of those being secured, may carry any point. Can the liberties of three millions of people be securely trusted in the hands of 24 men? Is it prudent to commit to so small a number the decision of the great questions which will come before them? Reason revolts at the idea.

6.12.20 The honorable gentleman from New York has said that 65 members in the house of representatives are sufficient for the present situation of the country, and taking it for granted that they will increase as one for 30,000, in 25 years they will amount to 200. It is admitted by this observation that the number fixed in the Constitution, is not sufficient without it is augmented. It is not declared that an increase shall be made, but is left at the discretion of the legislature, by the gentleman's own concession; therefore the Constitution is imperfect. We certainly ought to fix in the Constitution those things which are essential to liberty. If any thing falls under this description, it is the number of the legislature. To say, as this gentleman does, that our security is to depend upon the spirit of the people, who will be watchful of their liberties, and not suffer them to be infringed, is absurd. It would equally prove that we might adopt any form of government. I believe were we to create a despot, he would not immediately dare to act the tyrant; but it would not be long before he would destroy the spirit of the people, or the people would destroy him. If our people have a high sense of liberty, the government should be congenial to this spirit—calculated to cherish the love of liberty, while yet it had sufficient force to restrain licentiousness. Government operates upon the spirit of the people, as well as the spirit of the people operates upon it—and if they are not conformable to each other, the one or the other will prevail.[21] In a less time than 25 years, the government

will receive its tone. What the spirit of the country may be at the end of that period, it is impossible to foretell: Our duty is to frame a government friendly to liberty and the rights of mankind, which will tend to cherish and cultivate a love of liberty among our citizens. If this government becomes oppressive it will be by degrees: It will aim at its end by disseminating sentiments of government opposite to republicanism; and proceed from step to step in depriving the people of a share in the government. A recollection of the change that has taken place in the minds of many in this country in the course of a few years, ought to put us upon our guard. Many who are ardent advocates for the new system, reprobate republican principles as chimerical and such as ought to be expelled from society. Who would have thought ten years ago, that the very men who risqued their lives and fortunes in support of republican principles, would now treat them as the fictions of fancy?—A few years ago we fought for liberty—We framed a general government on free principles—We placed the state legislatures, in whom the people have a full and fair representation, between Congress and the people. We were then, it is true, too cautious; and too much restricted the powers of the general government. But now it is proposed to go into the contrary, and a more dangerous extreme; to remove all barriers; to give the New Government free access to our pockets, and ample command of our persons; and that without providing for a genuine and fair representation of the people. No one can say what the progress of the change of sentiment may be in 25 years. The same men who now cry up the necessity of an energetic government, to induce a compliance with this system, may in much less time reprobate this in as severe terms as they now do the confederation, and may as strongly urge the necessity of going as far beyond this, as this is beyond the Confederation.—Men of this class are increasing—they have influence, talents and industry—It is time to form a barrier against them. And while we are willing to establish a government adequate to the purposes of the union, let us be careful to establish it on the broad basis of equal liberty.

23 June 1788

Honorable Mr. *Smith*. I did not intend to make any more observations on this article. Indeed, I have heard nothing to day, which has not been suggested before, except the polite reprimand I have received for my declamation. I should not have risen again, but to examine who has proved himself the greatest declaimer. The gentleman wishes me to describe what I meant, by representing the feelings of the people.[22] If I recollect right, I said the representative ought to understand, and govern his conduct by the true interest of the people.—I believe I stated this idea precisely. When he 6.12.21

attempts to explain my ideas, he explains them away to nothing: and instead of answering, he distorts, and then sports with them. But he may rest assured, that in the present spirit of the Convention, to irritate is not the way to conciliate. The gentleman, by the false gloss he has given to my argument, makes me an enemy to the rich: This is not true. All I said, was, that mankind were influenced, in a great degree, by interests and prejudices:—That men, in different ranks of life, were exposed to different temptations—and that ambition was more peculiarly the passion of the rich and great. The gentleman supposes the poor have less sympathy with the sufferings of their fellow creatures; for that those who feel most distress themselves, have the least regard to the misfortunes of others:—Whether this be reasoning or declamation, let all who hear us determine. I observed that the rich were more exposed to those temptations, which rank and power hold out to view: that they were more luxurious and intemperate, because they had more fully the means of enjoyment; that they were more ambitious, because more in the hope of success. The gentleman says my principle is not true; for that a poor man will be as ambitious to be a constable, as a rich man to be a governor:—But he will not injure his country so much by the party he creates to support his ambition.

6.12.22 The next object of the gentleman's ridicule is my idea of an aristocracy; and he indeed has done me the honor, to rank me in the order.[23] If then I am an aristocrat, and yet publicly caution my countrymen against the encroachments of the aristocrats, they will surely consider me as one of their most disinterested friends. My idea of aristocracy is not new:—It is embraced by many writers on government:—I would refer the gentleman for a definition of it to the honorable *John Adams*, one of our natural aristocrats.[24] This writer will give him a description the most ample and satisfactory. But I by no means intended to carry my idea of it to such a ridiculous length as the gentleman would have me; nor will any of my expressions warrant the construction he imposes on them. My argument was, that in order to have a true and genuine representation, you must receive the middling class of people into your government—such as compose the body of this assembly. I observed, that a representation from the United States could not be so constituted, as to represent completely the feelings and interests of the people; but that we ought to come as near this object as possible. The gentlemen say, that the exactly proper number of representatives is so indeterminate and vague, that it is impossible for them to ascertain it with any precision. But surely, they are able to see the distinction between twenty and thirty. I acknowledged that a complete representation would make the legislature too numerous; and therefore, it is our duty to limit the powers, and form checks on the government, in proportion to the smallness of the number.

6.12.23 The honorable gentleman next animadverts on my apprehensions of corruption, and instances the present Congress, to prove an absurdity in my

argument. But is this fair reasoning? There are many material checks to the operations of that body, which the future Congress will not have. In the first place, they are chosen annually:—What more powerful check! They are subject to recal: Nine states must agree to any important resolution, which will not be carried into execution, till it meets the approbation of the people in the state legislatures. Admitting what he says, that they have pledged their faith to support the acts of Congress; yet, if these be contrary to the essential interests of the people, they ought not to be acceded to; for they are not bound to obey any law, which tends to destroy them.

It appears to me, that had œconomy been a motive for making the representation small; it might have operated more properly in leaving out some of the offices which this constitution requires. I am sensible that a great many of the common people, who do not reflect, imagine that a numerous representation involves a great expence:—But they are not aware of the real security it gives to an œconomical management in all the departments of government. 6.12.24

The gentleman further declared, that as far his acquaintance extended, the people thought sixty-five a number fully large enough for our State Assembly; and hence inferred, that sixty-five is to two hundred and forty thousand, as sixty five is to three millions.—This is curious reasoning. 6.12.25

I feel that I have troubled the committee too long. I should not indeed have risen again upon this subject, had not my ideas been grossly misrepresented.

[*The Convention turned, on 24 June, to a consideration of Article I, section 3, the constitution of the Senate. Mr. George Livingston moved the following amendment: "Resolved, That no person shall be eligible as a senator for more than six years in any term of twelve years, and that it shall be in the power of the legislatures of the several states to recall their senators, or either of them, and to elect others in their stead, to serve for the remainder of the time for which such senator or senators, so recalled, were appointed."*]

The honorable Mr. *Smith* observed, that when he had the honor to address the committee on the preceding question of the representation, he stated to them his idea, that it would be impossible, under the constitution as it stands, to have such a genuine representation of the people, as would itself form a check in the government: That therefore it became our duty to provide checks of another nature. The honorable gentleman from New-York had made many pertinent observations on the propriety of giving stability to the senate. The general principles laid down, he thought were 6.12.26

just. He only disputed the inferences drawn from them, and their application to the proposed amendment. The only question was, whether the checks attempted in the amendment were incompatible with that stability which he acknowledged was essential to good government. Mr. *Smith* said he did not rise to enter at present into the debate at large. Indisposition obliged him to beg leave of the committee to defer what he had to offer to them till the succeeding day.

Convention adjourned.

Wednesday, 25 June

Section third was again read—when

6.12.27 Mr. *Smith* resumed his argument as follows. The amendment embraces two objects: First, that the senators shall be eligible for only six years in any term of twelve years; Second, that they shall be subject to the recall of the legislatures of their several states. It is proper that we take up these points separately. I concur with the honorable gentleman, that there is a necessity for giving this branch a greater stability than the house of representatives. I think his reasons are conclusive on this point. But, Sir, it does not follow from this position that the senators ought to hold their places during life. Declaring them ineligible during a certain term after six years, is far from rendering them less stable than is necessary. We think the amendment will place the senate in a proper medium between a fluctuating and a perpetual body. As the clause now stands, there is no doubt that the senators will hold their office perpetually; and in this situation, they must of necessity lose their dependence and attachment to the people. It is certainly inconsistent with the established principles of republicanism, that the senate should be a fixed and unchangeable body of men. There should be then some constitutional provision against this evil. A rotation I consider as the best possible mode of affecting a remedy. The amendment will not only have a tendency to defeat any plots, which may be formed against the liberty and authority of the state governments, but will be the best means to extinguish the factions which often prevail, and which are sometimes so fatal in legislative bodies. This appears to me an important consideration. We have generally found, that perpetual bodies have either combined in some scheme of usurpation, or have been torn and distracted with cabals—Both have been the source of misfortunes to the state. Most people acquainted with history will acknowledge these facts. Our Congress would have been a fine field for party spirit to act in—That body would undoubtedly have suffered all the evils of faction, had it not been secured by the rotation

established by the articles of the confederation. I think a rotation in the government is a very important and truly republican institution. All good republicans, I presume to say, will treat it with respect.[25]

6.12.28 It is a circumstance strongly in favor of rotation, that it will have a tendency to diffuse a more general spirit of emulation, and to bring forward into office the genius and abilities of the continent—The ambition of gaining the qualifications necessary to govern, will be in some proportion to the chance of success. If the office is to be perpetually confined to a few, other men of equal talents and virtue, but not possessed of so extensive an influence, may be discouraged from aspiring to it. The more perfectly we are versed in the political science, the more firmly will the happy principles of republicanism be supported. The true policy of constitutions will be to increase the information of the country, and disseminate the knowledge of government as universally as possible. If this be done, we shall have, in any dangerous emergency, a numerous body of enlightened citizens, ready for the call of their country. As the constitution now is, you only give an opportunity to two men to be acquainted with the public affairs. It is a maxim with me, that every man employed in a high office by the people, should from time to time return to them, that he may be in a situation to satisfy them with respect to his conduct and the measures of administration. If I recollect right, it was observed by an honorable member from New-York, that this amendment would be an infringement of the natural rights of the people.[26] I humbly conceive, if the gentleman reflects maturely on the nature of his argument, he will acknowledge its weakness. What is government itself, but a restraint upon the natural rights of the people? What constitution was ever devised, that did not operate as a restraint on their original liberties? What is the whole system of qualifications, which take place in all free governments, but a restraint? Why is a certain age made necessary? Why a certain term of citizenship? This constitution itself, Sir, has restraints innumerable.—The amendment, it is true, may exclude two of the best men: but it can rarely happen, that the state will sustain any material loss by this. I hope and believe that we shall always have more than two men, who are capable of discharging the duty of a senator. But if it should so happen that the state possessed only two capable men, it will be necessary that they should return home, from time to time, to inspect and regulate our domestic affairs. I do not conceive the state can suffer any inconvenience. The argument indeed might have some weight were the representation very large: But as the power is to be exercised upon only two men, the apprehensions of the gentlemen are entirely without foundation.

6.12.29 With respect to the second part of the amendment, I would observe that as the senators are the representatives of the state legislatures, it is reasonable and proper that they should be under their controul. When a state sends an agent commissioned to transact any business, or perform any service, it certainly ought to have a power to recall him.These are plain principles, and

so far as they apply to the case under examination, they ought to be adopted by us. Form this government as you please, you must at all events lodge in it very important powers: These powers must be in the hands of a few men, so situated as to produce a small degree of responsibility. These circumstances ought to put us upon our guard; and the inconvenience of this necessary delegation of power should be corrected, by providing some suitable checks.

6.12.30 Against this part of the amendment a great deal of argument has been used, and with considerable plausibility. It is said if the amendment takes place, the senators will hold their office only during the pleasure of the state legislatures, and consequently will not possess the necessary firmness and stability. I conceive, Sir, there is a fallacy in this argument, founded upon the suspicion that the legislature of a state will possess the qualities of a mob, and be incapable of any regular conduct. I know that the impulses of the multitude are inconsistent with systematic government. The people are frequently incompetent to deliberate discussion, and subject to errors and imprudencies. Is this the complexion of the state legislatures? I presume it is not. I presume that they are never actuated by blind impulses—that they rarely do things hastily and without consideration. [The state legislatures were select bodies of men, chosen for their superior wisdom, and so organized as to be capable of calm and regular conduct.][27] My apprehension is, that the power of recall would not be exercised as often as it ought. It is highly improbable that a man, in whom the state has confided, and who has an established influence, will be recalled, unless his conduct has been notoriously wicked.—The arguments of the gentleman therefore, do not apply in this case. It is further observed, that it would be improper to give the legislatures this power, because the local interests and prejudices of the states ought not to be admitted into the general government; and that if the senator is rendered too independent of his constituents,[28] he will sacrifice the interests of the Union to the policy of his state. Sir, the senate has been generally held up by all parties as a safe guard to the rights of the several states. In this view, the closest connection between them has been considered as necessary. But now it seems we speak a different language—We now look upon the least attachment to their states as dangerous—We are now for separating them, and rendering them entirely independent, that we may root out the last vestige of state sovereignty.

6.12.31 An honorable gentleman from New-York observed yesterday, that the states would always maintain their importance and authority, on account of their superior influence over the people.[29] To prove this influence, he mentioned the aggregate number of the state representatives throughout the continent. But I ask him, how long the people will retain their confidence for two thousand representatives, who shall meet once in a year to make laws for regulating the heighth of your fences and the repairing of your roads? Will they not by and by be saying,—Here, we are paying a great number of

men for doing nothing: We had better give up all the civil business of our state with its powers to congress, who are sitting all the year round: We had better get rid of the useless burthen. That matters will come to this at last, I have no more doubt than I have of my existence. The state governments, without object or authority, will soon dwindle into insignificance, and be despised by the people themselves. I am, sir, at a loss to know how the state legislatures will spend their time. Will they make laws to regulate agriculture? I imagine this will be best regulated by the sagacity and industry of those who practise it. Another reason offered by the gentleman is, that the states will have a greater number of officers than the general government. I doubt this. Let us make a comparison. In the first place, the federal government must have a compleat set of judicial officers of different ranks throughout the continent: Then, a numerous train of executive officers, in all the branches of the revenue, both internal and external, and all the civil and military departments. Add to this, their salaries will probably be larger and better secured than those of any state officers. If these numerous offices are not at once established, they are in the power of congress, and will all in time be created. Very few offices will be objects of ambition in the states. They will have no establishments at all to correspond with some of those I have mentioned—In other branches, they will have the same as congress. But I ask, what will be their comparative influence and importance? I will leave it, sir, to any man of candour, to determine whether there will not probably be more lucrative and honorable places in the gift of congress than in the disposal of the states all together. But the whole reasoning of the gentlemen rests upon the principle that the states will be able to check the general government, by exciting the people to opposition: It only goes to prove, that the state officers will have such an influence over the people, as to impell them to hostility and rebellion. This kind of check, I contend, would be a pernicious one; and certainly ought to be prevented. Checks in government ought to act silently, and without public commotion.[30] I think that the harmony of the two powers should by all means be maintained: If it be not, the operation of government will be baneful—One or the other of the parties must finally be destroyed in the conflict. The constitutional line between the authority of each should be so obvious, as to leave no room for jealous apprehensions or violent contests.[31]

It is further said, that the operation of local interests should be counteracted; for which purpose, the senate should be rendered permanent. I conceive that the true interest of every state is the interest of the whole; and that if we should have a well regulated government, this idea will prevail. We shall indeed have few local interests to pursue, under the new constitution: because it limits the claims of the states by so close a line, that on their part there can be little dispute, and little worth disputing about. But, sir, I conceive that partial interests will grow continually weaker, because there are not those fundamental differences between the real interests of the 6.12.32

several states, which will long prevent their coming together and becoming uniform.

6.12.33 Another argument advanced by the gentlemen is, that our amendment would be the means of producing factions among the electors: That aspiring men would misrepresent the conduct of a faithful senator; and by intrigue, procure a recall, upon false grounds, in order to make room for themselves. But, sir, men who are ambitious for places will rarely be disposed to render those places unstable. A truly ambitious man will never do this, unless he is mad. It is not to be supposed that a state will recall a man once in twenty years, to make way for another. Dangers of this kind are very remote: I think they ought not to be brought seriously into view.

6.12.34 More than one of the gentlemen have ridiculed my apprehensions of corruption. How, say they, are the people to be corrupted? By their own money? Sir, in many countries, the people pay money to corrupt themselves: why should it not happen in this? Certainly, the congress will be as liable to corruption as other bodies of men. Have they not the same frailties, and the same temptations? With respect to the corruption arising from the disposal of offices, the gentlemen have treated the argument as insignificant. But let any one make a calculation, and see whether there will not be good offices enough, to dispose of to every man who goes there, who will then freely resign his seat: for, can any one suppose, that a member of congress would not go out and relinquish his four dollars a day, for two or three thousand pounds a year? It is here objected that no man can hold an office created during the time he is in Congress—But it will be easy for a man of influence, who has in his eye a favorite office previously created and already filled, to say to his friend, who holds it—Here—I will procure you another place of more emolument, provided you will relinquish yours in favor of me. The constitution appears to be a restraint, when in fact it is none at all. I presume, sir, there is not a government in the world in which there is greater scope for influence and corruption in the disposal of offices. Sir, I will not declaim, and say all men are dishonest; but I think that, in forming a constitution, if we presume this, we shall be on the safest side.[32] This extreme is certainly less dangerous than the other. It is wise to multiply checks to a greater degree than the present state of things requires. It is said that corruption has never taken place under the old government—I believe, gentlemen hazard this assertion without proofs. That it has taken place in some degree is very probable. Many millions of money have been put into the hands of government, which have never yet been accounted for: The accounts are not yet settled, and Heaven only knows when they will be.

6.12.35 I have frequently observed a restraint upon the state governments, which Congress never can be under, construct that body as you please. It is a truth, capable of demonstration, that the nearer the representative is to his constituent, the more attached and dependent he will be—In the states, the elections are frequent, and the representatives numerous: They transact

business in the midst of their constituents, and every man may be called upon to account for his conduct. In this state the council of appointment are elected for one year.—The proposed constitution establishes a council of appointment who will be perpetual—Is there any comparison between the two governments in point of security? It is said that the governor of this state is always eligible: But this is not in point. The governor of this state is limited in his powers—Indeed his authority is small and insignificant, compared to that of the senate of the United States.

[*On 26 June the convention reached section 8 of Article I, dealing with the powers of Congress, and Mr. John Williams moved that Congress should lay no direct taxes except when the impost and excise are insufficient to meet the public exigencies and then only after requisitions on the states have been refused or neglected. The following day, Smith spoke as follows.*]

Friday, 27 June

Section 8, was again read,—and

The hon. Mr. *Smith* rose.—We are now come to a part of the system, which requires our utmost attention, and most careful investigation. It is necessary that the powers vested in government should be precisely defined, that the people may be able to know whether it moves in the circle of the constitution. It is the more necessary in governments like the one under examination; because Congress here is to be considered as only part of a complex system. The state governments are necessary for certain local purposes; The general government for national purposes: The latter ought to rest on the former, not only in its form, but in its operations. It is therefore of the highest importance, that the line of jurisdiction should be accurately drawn. It is necessary, sir, in order to maintain harmony between the governments, and to prevent the constant interference which must either be the cause of perpetual differences, or oblige one to yield, perhaps unjustly, to the other. I conceive the system cannot operate well, unless it is so contrived, as to preserve harmony. If this be not done, in every contest, the weak must submit to the strong. The clause before us is of the greatest importance: It respects the very vital principle of government: The power is the most efficient and comprehensive that can be delegated; and seems in some measure to answer for all others. I believe it will appear evident, that money must be raised for the support of both governments: If therefore you give to one or the other, a power which may in its operation become exclu- 6.12.36

sive; it is obvious, that one can exist only at the will of the other; and must ultimately be sacrificed. The powers of the general government extend to the raising of money, in all possible ways, except by duties on exports; to the laying taxes on imports, lands, buildings, and even on persons. The individual states in time will be allowed to raise no money at all: The United States will have a right to raise money from every quarter. The general government has moreover this advantage. All disputes relative to jurisdiction must be decided in a federal court.

6.12.37 It is a general maxim, that all governments find a use for as much money as they can raise.[33] Indeed they have commonly demands for more: Hence it is, that all, as far as we are acquainted, are in debt. I take this to be a settled truth, that they will all spend as much as their revenue; that is, will live at least up to their income. Congress will ever exercise their powers, to levy as much money as the people can pay. They will not be restrained from direct taxes, by the consideration that necessity does not require them. If they forbear, it will be because the people cannot answer their demands. There will be no possibility of preventing the clashing of jurisdictions, unless some system of accomodation is formed. Suppose taxes are laid by both governments on the same article: It seems to me impossible, that they can operate with harmony. I have no more conception that in taxation two powers can act together; than that two bodies can occupy the same place. They will therefore not only interfere; but they will be hostile to each other. Here are to be two lists of all kinds of officers—supervisors, assessors, constables, &c. imployed in this business. It is unnecessary that I should enter into a minute detail, to prove that these complex powers cannot operate peaceably together, and without one being overpowered by the other. On one day, the continental collector calls for the tax; He seizes a horse: The next day, the state collector comes, procures a replevin and retakes the horse, to satisfy the state tax. I just mention this, to shew that people will not submit to such a government, and that finally it must defeat itself.

6.12.38 It must appear evident, that there will be a constant jarring of claims and interests. Now will the states in this contest stand any chance of success? If they will, there is less necessity for our amendment. But, consider the superior advantages of the general government: Consider their extensive, exclusive revenues; the vast sums of money they can command, and the means they thereby possess of supporting a powerful standing force. The states, on the contrary, will not have the command of a shilling, or a soldier. The two governments will be like two men contending for a certain property: The one has no interest but that which is the subject of the controversy; while the other has money enough to carry on the law-suit for twenty years. By this clause unlimited powers in taxation are given: Another clause declares, that Congress shall have power to make all laws necessary to carry the constitution into effect. Nothing therefore is left to construction; but the powers are most express. How far the state legisla-

tures will be able to command a revenue, every man, on viewing the subject, can determine. If he contemplates the ordinary operation of causes, he will be convinced that the powers of the confederacy will swallow up those of the members. I do not suppose that this effect will be brought about suddenly—As long as the people feel universally and strongly attached to the state governments, Congress will not be able to accomplish it: If they act prudently, their powers will operate and be increased by degrees. The tendency of taxation, tho' it be moderate, is to lessen the attachment of the citizens—If it becomes oppressive, it will certainly destroy their confidence. While the general taxes are sufficiently heavy, every attempt of the states to enhance them, will be considered as a tyrannical act, and the people will lose their respect and affection for a government, which cannot support itself, without the most grievous impositions upon them. If the constitution is accepted as it stands, I am convinced, that in seven years as much will be said against the state governments, as is now said in favour of the proposed system.

Sir, I contemplate the abolition of the state constitutions as an event fatal 6.12.39
to the liberties of America. These liberties will not be violently wrested from the people; they will be undermined and gradually consumed. On subjects of this kind we cannot be too critical. The investigation is difficult, because we have no examples to serve as guides. The world has never seen such a government over such a country. If we consult authorities in this matter, they will declare the impracticability of governing a free people, on such an extensive plan.[34] In a country, where a portion of the people live more than twelve hundred miles from the center, I think that one body cannot possibly legislate for the whole. Can the legislature frame a system of taxation that will operate with uniform advantages? Can they carry any system into execution? Will it not give occasion for an innumerable swarm of officers, to infest our country and consume our substance? People will be subject to impositions, which they cannot support, and of which their complaints can never reach the government.

Another idea is in my mind, which I think conclusive against a simple 6.12.40
government for the United States. It is not possible to collect a set of representatives, who are acquainted with all parts of the continent. Can you find men in Georgia who are acquainted with the situation of New-Hampshire? who know what taxes will best suit the inhabitants; and how much they are able to bear? Can the best men make laws for a people of whom they are entirely ignorant? Sir, we have no reason to hold our state governments in contempt, or to suppose them incapable of acting wisely. I believe they have operated more beneficially than most people expected, who considered that those governments were erected in a time of war and confusion, when they were very liable to errors in their structure. It will be a matter of astonishment to all unprejudiced men hereafter, who shall reflect upon our situation, to observe to what a great degree good government has

prevailed. It is true some bad laws have been passed in most of the states; but they arose more from the difficulty of the times, than from any want of honesty or wisdom. Perhaps there never was a government, which in the course of ten years did not do something to be repented of. As for Rhode-Island, I do not mean to justify her—She deserves to be condemned—If there were in the world but one example of political depravity, it would be her's: And no nation ever merited or suffered a more genuine infamy, than a wicked administration has attached to her character. Massachusetts also has been guilty of errors: and has lately been distracted by an internal convulsion. Great-Britain, notwithstanding her boasted constitution, has been a perpetual scene of revolutions and civil war—Her parliaments have been abolished; her kings have been banished and murdered. I assert that the majority of the governments in the union have operated better than any body had reason to expect: and that nothing but experience and habit is wanting, to give the state laws all the stability and wisdom necessary to make them respectable. If these things be true, I think we ought not to exchange our condition, with a hazard of losing our state constitutions. We all agree that a general government is necessary: But it ought not to go so far, as to destroy the authority of the members. We shall be unwise, to make a new experiment in so important a matter, without some known and sure grounds to go upon. The state constitutions should be the guardians of our domestic rights and interests; and should be both the support and the check of the federal government. The want of the means of raising a general revenue has been the principal cause of our difficulties. I believe no man will doubt that if our present Congress had money enough, there would be few complaints of their weakness. Requisitions have perhaps been too much condemned. What has been their actual operation[?] Let us attend to experience, and see if they are such poor, unproductive things, as is commonly supposed. If I calculate right, the requisitions for the ten years past, have amounted to thirty-six millions of dollars; of which twenty-four millions, or two thirds, have been actually paid. Does not this fact warrant a conclusion that some reliance is to be placed on this mode? Besides, will any gentleman say that the states have generally been able to collect more than two thirds of their taxes from the people? The delinquency of some states has arisen from the fluctuations of paper money, &c. Indeed it is my decided opinion, that no government in the difficult circumstances, which we have passed thro', will be able to realize more than two thirds of the taxes it imposes. I might suggest two other considerations which have weight with me—There has probably been more money called for, than was actually wanted, on the expectation of delinquencies; and it is equally probable, that in a short course of time the increasing ability of the country will render requisitions a much more efficient mode of raising a revenue. The war left the people under very great burthens, and oppressed with both public and private debts. They are now fast emerging from their difficulties.

Many individuals without doubt still feel great inconveniences; but they will find a gradual remedy. Sir, has any country which has suffered distresses like ours, exhibited within a few years, more striking marks of improvement and prosperity? How its population has grown; How its agriculture, commerce and manufactures have been extended and improved! How many forests have been cut down; How many wastes have been cleared and cultivated; How many additions have been made to the extent and beauty of our towns and cities! I think our advancement has been rapid. In a few years, it is to be hoped, that we shall be relieved from our embarrassments; and unless new, calamities come upon us, shall be flourishing and happy. Some difficulties will ever occur in the collection of taxes by any mode whatever. Some states will pay more; some less. If New-York lays a tax, will not one county or district furnish more, another less than its proportion? The same will happen to the United States, as happens in New-York, and in every other country.—Let them impose a duty equal and uniform—those districts, where there is plenty of money, will pay punctually: Those, in which money is scarce, will be in some measure delinquent. The idea that Congress ought to have unlimited powers, is entirely novel; I never heard it, till the meeting of this convention. The general government once called on the states, to invest them with the command of funds adequate to the exigencies of the union: but they did not ask to command all the resources of the states—They did not wish to have a controul over all the property of the people. If we now give them this controul, we may as well give up the state governments with it. I have no notion of setting the two powers at variance; nor would I give a farthing for a government, which could not command a farthing. On the whole, it appears to me probable, that unless some certain, specific source of revenue is reserved to the states, their governments, with their independency will be totally annihilated.

1. Cf. Henry 5.16.6.

2. See Robert Livingston, Elliot II, 212–13; see *The Federalist* nos. 6–8 and references in Centinel IV, 2.7.91 n. 43; Federal Farmer I, 2.8.1 n. 4; Plebeian 6.11.5 n. 6.

3. Hamilton replied, Elliot II, 230–31. Cf. the order of the argument in *The Federalist:* the utility of union; the defects of the present Confederation; the necessity of a government at least as energetic as the one proposed (no. 1, 6–7). Livingston had followed *The Federalist* in beginning with the desirability of union and moving to the fundamental insufficiency of the Articles of Confederation. Elliot II, 208–16.

4. Livingston, Elliot II, 214.

5. Livingston had argued "that the old Confederation was defective in its principle, and impeachable in its execution, as it operated upon states in their political capacity, and not upon individuals; and that it carried with it the seeds of domestic violence, and tended ultimately to its dissolution. . . . [T]he powers which were, by common consent, intended to be vested in the federal head, had either been found deficient, or rendered useless by the impossibility of carrying them into execution, as the principle of a league of states totally separate and independent;—secondly, that if the principle was changed, a change would also be necessary in the form of the government; but if we could no longer retain the old principle of the confederacy, and were compelled to change its form, we were driven to the necessity of creating a new constitution, and

could find no place to rest upon in the old Confederation. . . . " Elliot II, 214–15; cf. *The Federalist* no. 15. On the Anti-Federalist opposition to consolidation, see Plebeian, 6.11.15 n. 9.

6. See Martin 2.4.43 n. 12.

7. Montesquieu, *The Spirit of Laws* IX, ch. 1.

8. Livingston was Chancellor of New York. On the claim that the Anti-Federalists were mainly state officials see Martin 2.4.117 n. 44.

9. Cf. *The Federalist* no. 49. On dangers of innovation, see Republican Federalist 4.13.15 n. 11.

10. I Samuel 8:11–18.

11. See Brutus IV, 2.9.48 n. 34.

12. See Cato IV, 2.6.27 n. 18.

13. Hamilton replied: "It was remarked yesterday, that a numerous representation was necessary to obtain the confidence of the people. This is not generally true. The confidence of the people will easily be gained by a good administration. This is the true touchstone. . . . The popular confidence depends on circumstances very distinct from considerations of number. Probably the public attachment is more strongly secured by a train of prosperous events, which are the result of wise deliberation and vigorous execution, and to which large bodies are much less competent than small ones." Elliot II, 254. Cf. *The Federalist* no. 17, 106–7; no. 27.

14. While acknowledging that there was no direct prohibition, Hamilton had contended "that the true and genuine construction of the clause gives Congress no power whatever to reduce the representation below the number as it now stands. Although they may limit, they can never diminish the number." Elliot II, 238.

15. See *The Federalist* no. 58. Smith continues this argument at 6.12.22.

16. See 6.12.21 ff. Smith's whole discussion of representation and its bearing on the taxing powers should be compared with *The Federalist* nos. 35, 36, and 63. References to the main Anti-Federalist discussions of representation are collected in Federal Farmer II, 2.8.15 n. 11.

17. Hamilton replied: "But who are the aristocracy among us? Where do we find men elevated to a perpetual rank above their fellow-citizens, and possessing powers entirely independent of them? The arguments of the gentleman only go to prove that there are men who are rich, men who are poor, some who are wise, and others who are not; that, indeed, every distinguished man is an aristocrat. This reminds me of a description of the aristocrats I have seen in a late publication styled the Federal Farmer. The author reckons in the aristocracy all governors of states, members of Congress, chief magistrates, and all officers of the militia. This description, I presume to say, is ridiculous. The image is a phantom. Does the new government render a rich man more eligible than a poor one? No. It requires no such qualification. It is bottomed on the broad and equal principle of your state constitution." Elliot II, 256. See Federal Farmer VII, 2.8.97–100. Smith replies 6.12.21–23. For other Anti-Federalist discussions of the natural aristocracy, see Federal Farmer VII, 2.8.97 n. 64.

18. Hamilton replied: "It is a harsh doctrine that men grow wicked in proportion as they improve and enlighten their minds. Experience has by no means justified us in the supposition that there is more virtue in one class of men than in another. Look through the rich and the poor of the community, the learned and the ignorant, where does virtue predominate? The difference indeed consists, not in the quantity, but kind, of vices which are incident to various classes; and here the advantage of character belongs to the wealthy. Their vices are probably more favorable to the prosperity of the state than those of the indigent, and partake less of moral depravity." Elliot II, 257. See below, n. 22.

19. *Journals of the Continental Congress* I, 105–13. The address, published in 1774, quotes from the Introduction to Beccaria's *Essay on Crimes and Punishments*. See Federal Farmer VII, 2.8.97 n. 61.

20. Sir Robert Walpole? William Coxe, *Memoirs of Walpole* IV, 369.

21. For other Anti-Federalist discussions of this practice see Federal Farmer III, 2.8.25 n. 19.

22. See 6.12.15, 21–22. Chancellor Livingston had said: "As to the idea of representing the feelings of the people, I do not entirely understand it, unless by their feelings are meant their interests. They appear to me to be the same thing. But if they have feelings which do not rise out of their interests, I think they ought not to be represented. What! shall the unjust, the selfish, the unsocial feelings, be represented? Shall the vices, the infirmities, the passions, of the people, be represented? Government, sir, would be a monster; laws made to encourage virtue and maintain peace would have a preposterous tendency to subvert the authority and outrage the principles on which they were founded; besides, the feelings of the people are so variable and inconstant, that our rulers should be chosen every day: people have one sort of feeling today, another tomorrow, and the voice of the representative must be incessantly changing in correspondence with these feelings. This would be making him a political weathercock." Elliot II, 275–76.

23. The Chancellor's sarcasm is broad, but he points to a basic difficulty in Smith's position: "The gentleman . . . is obliged to fortify [his reasoning] by having recourse to the phantom aristocracy. I have heard much of this. I always considered it as the bugbear of the party. We are told that, in every country, there is a natural aristocracy, and that this aristocracy consists of the rich and the great: nay, the gentleman goes further, and ranks in this class of men the wise, the learned, and those eminent for their talents or great virtues. Does a man possess the confidence of his fellow-citizens for having done them important services? He is an *aristocrat*. Has he great integrity? Such a man will be greatly trusted: he is an aristocrat. Indeed, to determine that one is an aristocrat, we need only be assured he is a man of merit. But I hope we have many such. I hope, sir, we are all aristocrats. So sensible am I of that gentleman's talents, integrity, and virtue, that we might at once hail him the first of the nobles, the very prince of the Senate. But whom in the name of common sense, will we have to represent us? Not the rich, for they are sheer aristocrats. Not the learned, the wise, the virtuous, for they are all aristocrats. Whom then? Why, those who are not virtuous; those who are not wise; those who are not learned: these are the men to whom alone we can trust our liberties. He says further, we ought not to choose these aristocrats, because the people will not have confidence in them; that is, the people will not have confidence in those who best deserve and most possess their confidence. He would have his government composed of other classes of men: where will we find them? Why, he must go out into the highways, and pick up the rogue and the robber; he must go to the hedges and ditches, and bring in the poor, the blind, and the lame. As the gentleman has thus settled the definition of aristocracy, I trust that no man will think it a term of reproach; for who among us would not be wise? Who would not be virtuous? Who would not be above want? How, again, would he have us to guard against aristocracy? Clearly by doubling the representation, and sending twelve aristocrats instead of six. The truth is, in these republican governments, we know no such ideal distinctions. We are all equally aristocrats. Offices, emoluments, honors, are open to all." Elliot II, 277–78. See above, n. 17.

24. John Adams, *Defence of the Constitutions of the United States* I, letter 25 (*Works* IV, 396–98).

25. See Hamilton's reply, Elliot II, 320–21, and Gouverneur Morris' opposition to any form of rotation: "It formed a political School, in wch. we were always governed by the scholars, and not by the Masters." Farrand II, 112 (25 July). On rotation see Federal Farmer XI, 2.8.147; Georgian 5.9.4–6.

26. Robert A. Livingston: "The people are the best judges who ought to represent them. To dictate and control them, to tell them whom they shall not elect, is to abridge their natural rights." Elliot II, 292–93.

27. Comment by Smith later this day. Elliot II, 324.

28. The original reads, "independent on his constituents."

29. Alexander Hamilton, Elliot II, 304–5. Cf. *The Federalist* no. 17, 106–7; no. 27, 172–74.

30. Hamilton argued: "Sir, the most powerful obstacle to the members of Congress betraying the interest of their constituents, is the state legislatures themselves, who

will be standing bodies of observation, possessing the confidence of the people, jealous of federal encroachments, and armed with every power to check the first essays of treachery. They will institute regular modes of inquiry. The complicated domestic attachments, which subsist between the state legislators and their electors, will ever make them vigilant guardians of the people's rights. Possessed of the means and the disposition of resistance, the spirit of opposition will be easily communicated to the people, and, under the conduct of an organized body of leaders, will act with weight and system. Thus it appears that the very structure of the confederacy affords the surest preventives from error, and the most powerful checks to misconduct." Elliot II, 266–67; see also 304–5. To this argument, Lansing answered: "The circumstances the gentleman had enumerated, which seemed to be in favor of the states, only proved that the people would be under some advantages to discern the encroachments of *Congress*, and to take the alarm; but what would this signify? The gentleman did not mean that his principles should encourage rebellion: what other resource had they? None, but to wait patiently till the long terms of their senators were expired, and then elect other men. All the boasted advantages enjoyed by the states were finally reduced to this. The gentleman had spoken of an enmity which would subsist between the general and state governments: what, then, would be the situation of both? His wish, he said, was to prevent any enmity, by giving the states a constitutional and peaceable mode of checking maladministration, by recalling their senators, and not driving them into hostilities, in order to obtain redress." Elliot II, 308–9.

31. Cf. Brutus X, 2.9.128 n. 84. See Monroe 5.21.17 n. 8; cf. Hamilton's argument that the division of powers between the general and state governments is a question of convenience, a prudential inquiry. Elliot II, 350.

32. For similar views see Brutus IV, 2.9.54; DeWitt 4.3.17; A Friend to the Rights of the People 4.23.3; Cincinnatus II, 6.1.12; also Elliot IV, 203 (Lenoir). The Federalists repeatedly warned against excessive jealousy of chosen rulers. For examples see Ford, *Pamphlets* 126 (A Citizen of Philadelphia), 364 (Marcus); Ford, *Essays* 191 (A Landholder); Elliot III, 70 (Randolph); Elliot IV, 195, 221 (Iredell); and, the definitive statement, *The Federalist* no. 76, 513–14.

33. Hamilton replied that the resources of the general government ought to extend "as far as possible exigencies can require; that is, without limitation. A constitution cannot set bounds to a nation's wants; it ought not, therefore, to set bounds to its resources." Elliot II, 351. In *The Federalist* Hamilton emphatically conceded that "*in the usual progress of things, the necessities of a nation in every stage of its existence will be found at least equal to its resources.*" *The Federalist* no. 30, 190; see also no. 23, 147–48; no. 21, 194–95; Symmes 4.5.14 n. 5.

34. For similar views see Cato III, 2.6.13–21 and n. 8. Hamilton argues that "this idea has been taken from a celebrated writer, who, by being misunderstood, has been the occasion of frequent fallacies in our reasoning on political subjects." Elliot II, 352; cf. *The Federalist* no. 9; Agrippa IV, 4.6.16 n. 10.

Notes of Speeches Given by George Clinton before the New York State Ratifying Convention

Like many Anti-Federal leaders, George Clinton's stage was a local one. Though a member of the second Continental Congress and later a Vice President of the United States, Clinton was, according to his biographer, "never to show any exaggerated zeal in the federal service."[1] It was as governor of New York (1777–95, 1801–3) and leader of the party that took his name that Clinton acquired his reputation for vigor, probity, and good judgment. He wielded, according to William Stone, "vast influence in his day, more by sound judgment, marvellous energy and great moral force of character than by any high-sounding or specially brilliant achievements."[2]

Clinton was chosen as the president of the New York Ratifying Convention but took a relatively small part in the debates.[3] None of the speeches printed here was reported in the newspapers or, therefore, in Elliot's *Debates,* these notes having been transcribed by George Bancroft in 1880 from the originals in the New York State Library. The originals were destroyed by fire, and Bancroft's transcripts, preserved in the New York Public Library, are published here for the first time.[4]

The notes are not in finished form, having been the speaker's notes or resume; but they are nevertheless a rather full and coherent account of the views expressed by Clinton at the convention. Perhaps their most striking feature is the clarity and emphasis with which they outline a truly federal position and the extent to which Clinton seems to rest on such a position. This might be called the primitive Anti-Federalist position, with its insistence that in a republic the will of the people is law and in a confederation the will of the state is law; or there is tyranny (6.13.2, 35). Replying directly to Hamilton's plausible argument that the proper inquiry is into the *objects* and *structure* of the government, Clinton seeks to turn the question back to the excessive *powers* granted to the federal government, particularly in the sphere of taxation (6.13.4–10). He concludes the first speech with a warning that republican government rests on the confidence of the people (which

presumably is enjoyed only by the states), in the absence of which it must inevitably turn to coercion.

The elucidation of the principle of federalism is especially clear and striking in the second speech (6.13.14–17, 22–23), where Clinton shows the departure of the Constitution from these principles (6.13.18–27). In the third speech Clinton summarizes his main objections (6.13.31–35), while explaining his reasons for supporting Melancton Smith's proposal for conditional ratification (6.13.37–45).

1. Spaulding, *His Excellency George Clinton* 11.
2. William L. Stone, "George Clinton," *The Magazine of American History* III (June 1879), 354. See also John S. Jenkins, *Lives of the Governors of the State of New York* (Auburn, N.Y.: Derby & Miller, 1851), 2–73.
3. On Clinton's activities concerning ratification see this volume, part 1, intro.; on his possible authorship of Cato's letters, see Cato 2.6. intro.
4. For editorial details, see note 1 to Clinton's text below.

Remarks made in the N.Y. State Convention on the power to levy taxes, as granted to Congress by the new Constitution. [*This speech probably of 27 June*][1]

6.13.1 I wish to make a few remarks upon the clause under consideration, which I am influenced to do from attempts which have been made in the course of the debate to establish principles which appear to be [*to me?*] not only to be new [*but?*] to mislead the mind.

I have before mentioned that I was apprehensive that we expressed from both sides of the Committee a desire to establish a strong energetic federal government and attachments to principles of republicanism, that while we agreed in the terms we differed essentially in the principles.

6.13.2 I think it proper on this occasion to declare that when I speak of a strong energetic federal government I mean such an one as is best calculated to preserve the peace and safety of the union and at the same time to secure the freedom and independence of the States. When I speak of a republican Government, I mean a government where the will of the people expressed by themselves as [or?] representatives is the law, and in the present compound government[,] where part of the powers originate from the people in their moral capacity and part from the states in their political capacity, the will of the component parts expressed in the general government ought to be the law, and that the security of the States and the liberties of the people might depend in having this will fully and fairly expressed in the public councils.—These are the true principles of a free representative government—if they are not[,] the election of representatives is mere matter of form, and the government is not a government of the people, or states but of

the few who exercise the powers of it—it may indeed be called a republic, for the idea is vague and indefinite and may include an arbitrary aristocracy—It has even been applied to the Brittish Government by some writers.

I have been led to express these sentiments from observations which have been made on a former occasion and repeated on the present by an Honble Gentm. from N. York to wit, that the Senators ought [*not?*] to be subject to the recal of the legislatures of the States, because they would be too subject to the influence of local and State prejudices, and be thereby diverted from the pursuit of general interests [*Hamilton on 24 and 25 June, Elliot 307, 320.*][2]—this, it is obvious is a doctrine contrary to common reason and the nature of things and every idea we can form of true representation and more especially when applied to the Legislatures of States which being a deliberative body cannot be supposed to be under the sudden impulses of passion and prejudice—nor can they ever fear want of information if their representatives in the general legislature do their duty. 6.13.3

The same Honble Gentm. [*Hamilton on 27 June, II Elliot 347–8*] attempted to establish another principle, to wit, that the only true security the People can have against the undue exercise of powers in the government is derived from its being organized on Representative republican principles and a proper distribution and separation of the legislative[,] judicial and executive branches of power.[3] This at first review is specious and plausible for it must be universally admitted, that much security is derived from this power. 6.13.4

It is therefore the better calculated to lead the mind from the true point of inquiry, to wit, whether the powers of this government are well defined and limitted to the proper objects. But, on this head, it will be only necessary to observe that the system itself establishes a different doctrine by express limitations in a variety of instances prohibiting the exercise of certain powers. For instance[:] The suspension of the Writ of Habeus Corpus except in certain cases. The passing of bills of attainder and ex post facto laws. The creation of a nobility and a variety of other restrictions too tedious to mention. 6.13.5

If the principle advocated by the Honble Gentm. was true in almost any extent, it is obvious that these provisions would have been unnecessary and that after having provided for the organization of the government[,] the distribution of its powers and a very few other objects, the whole system might have been comprised in the few following words, Congress shall have power to provide for the common defence and general welfare and to make all laws which in their judgment may be necessary and proper for these purposes. 6.13.6

The subject in debate is whether the power of levying internal taxes ought to be confided to Congress in the first instance, whether a matter so intimately connected with the internal police of the states,—a power which 6.13.7

might so immediately operate on the property of individuals and so indefinite that it may effect [*affect?*] the existence of the States ought in the first place to be confided in so feeble and imperfect a representation as that in the general government or whether it is not proper to reserve this power to the States except in cases where the delinquency may render their [the?] exercise of it in the genl. govt. necessary.

6.13.8 Great pains have been taken on one side to show that the States have concurrent jurisdiction with the genl. govt. in this instance, [*Elliot—2, 351*][4] and this seems in some measure to be admitted by all. I confess however that with me it is not clearly established. At most it depends upon construction and this too arising from a maxim which has not been adhered to by the framers of the Constitution, that what power is not expressly granted to the genl. govt. is reserved—for if we recur to the system, we will find that in sundry instances there are prohibitions found against the exercise of powers, which would appear to be neither expressly or impliedly granted, particularly in a case I have before mentioned, the creation of a nobility. This alone would justify a doubt—but admit the principle.

6.13.9 Concurrent Jurisdictions are dangerous—they ought as far as possible to be avoided—they may and in all probability will endanger the peace and harmony of the union. They involve the political absurdity of imperium in imperio, so destructive to every idea of good govt.

6.13.10 The celebrated Lord Coke somewhere observes that certainty is the mother of quiet[5]—It is unwise and dangerous therefore to suffer the fundamental compact to rest upon uncertain constructions, it will not fail to occasion discord between the genl. govt. and its members—and if it should we are told by the gentlemen who oppose the amendmt. that the latter will and must prevail and consequently the union will be dissolved.[6] I submit it therefore to the Committee, whether it will not be wise to avoid so great an evil by rendering the meaning of the system in this and every other instance, where it may be doubtful, certain and unequivocal and by limitting its powers as far as may be consistent with the general safety to such objects only as will avoid a dangerous and improper interference of State and genl. authority.

6.13.11 It has been alledged by the Gentlemen opposed to the system that in many instances the genl. and state govt. will have discordant interests. This has been fully admitted by the Gentm. in favor of it in their speeches agt. the amendt. proposed for subjecting the Senators to the recal of the States—for one of the arguments offered against the amendt. was that by rendering them too dependent on the States, it would subject them to state or local views.

6.13.12 This govt. among other things is to form a more perfect union, yet it would appear that its operations might produce discord with its members. It is in my opinion however absurd in the last degree to propose that the states will combine agt. the genl. govt. as long as it is confined to proper objects

and preserves the common interest—this would be to propose that the States will conspire to destroy themselves—and it has been added that the people from their attachments will even join them. [*This said by Hamilton on 24 June—Elliot—2, 304 and on 27 June—354, 355*] I do not believe that either will happen unless provoked by an undue and wicked administration. And should this be the case if the people both in their moral and political capacities should consider the general government as an evil I heartily join the honble. gentl in his pious ejaculation and when speaking with respect to the existence of the states Government.[7] God forbid that it should then continue to exist against the general will.

6.13.13 For my own part, I lay it down as a certain truth that unless the govt. is so constructed as to harmonize with the State Govts. and persue one common interest, that the system must fail and end in ruin. The best and surest support of a Republican Govt. is the confidence and attachment of the members of which it is composed—if they have clashing interests and interferring powers, this confidence and affection will cease and then if any government exists it must be supported by force and the coercion of the sword.[8]

Substance of a speech made in the N.Y. State Convention against adopting the New Constitution. [*This speech probably spoken on 11 July in opposition to Jay's motion* (to ratify and then recommend amendments). *See Elliot, 2. 410*]

6.13.14 On a consideration of the objections which have been made to the Constitution proposed for our adoption, it will readily be discovered that most of them are founded upon or derive force from the idea, that the system is a departure from the principles of a Confederacy and embraces the essential powers of a general consolidated government; on the other hand, if we take a view of the arguments, which have been offered to refute these objections, it will appear that they are principally predicated on a denial of this position and attempt to establish the contrary doctrine. It is asserted that the rights of the states will remain uninvaded and that they will serve as effectual barriers to secure the liberties of the people against the undue encroachments of power—and it has even been admitted by one of the framers and ablest advocates of the system—that so extensive a territory as the United States, would not be governed, connected and preserved but by the supremacy of despotic power. [*Probably refers here to what Hamilton says, pp. 352 and 353 of Elliot 2*][9]

6.13.15 In order then to be able to form a proper judgment on this subject, it is necessary carefully to inquire how far this system partakes of or departs from the nature of a confederate republic; and what[,] from the power it

possesses and the objects it embraces, its probable operations will be.

6.13.16 The definition given of States and their rights by authors of the first authority is, that they are equally free and independent, as the individuals of which they are composed, naturally were—that they are to be considered as moral persons, having a will of their own and equal rights—that these rights are freedom, sovereignty, and independence. The celebrated Vattel treating on this subject, observes "that power or weakness does not in this respect produce any difference. A dwarf is as much a man as a giant; a small republic is as much a sovereign as the most powerful kingdom."[10]

6.13.17 Hence it follows, that as the only inducement, which men can have to quit the condition, in which nature has placed them and enter into society is the preservation of their rights and liberties, so the only end for which states are induced to confederate, is mutual protection and the security of their equal rights,—and the idea of states confederating upon principles of inequality and destructive of their freedom and independence is as absurd and unreasonable as it would be to suppose that a man would take a draught of poison to preserve his life.

6.13.18 From these premises it is clearly deducible that the elements of every just league or confederacy, however diversified in the modification, ought to be.[11] 1st. That as the States are the creative principle, the power of the confederacy, must originate from and operate upon them, and not upon the individuals, who composed them, and consequently be confined as far as possible to general extraneous concerns, reserving to the States the exclusive sovereignty and arrangement of their internal government and concerns.

2nd. That the states having equal rights to protect, ought to be equally represented.

3rd. That it is the will of the States, which is to be expressed in the federal council, as their interests arise and their safety may require, they ought to have the government of that will and therefore that the delegates who are to express that will, ought to be subject to their appointment and controul.

6.13.19 I presume that to the most superficial observer, it will appear that these principles are founded in the reason and nature of things. To enter into a train of reasoning to support them, would consequently be an unnecessary waste of time. I am persuaded they will not be controverted.

If then in the formation of a Confederacy, an adherence to these principles, is essential to the security of the rights of the confederating states, we shall find on an examination of this system, that except in appearance, it is a total departure from them and calculated in its operations, to destroy not to preserve their existence.

6.13.20 From the terms of the instrument it appears that the powers granted do not originate from the states in their political capacity but from the people at large—The style is "We the people of the United States" hence this government must be considered as an original compact, annulling the State

Constitutions as far as its powers interfere with them and thus far destroying their distinct rights—The powers of this government operate not upon the States but immediately upon the people that compose them—They are not confined to the general and extraneous concerns of the States but extend to the most important internal affairs, to wit, the raising and levying of taxes direct and indirect—the regulation of bankruptcies, the establishing of rules for naturalization, the organizing and disciplining the militia, and the regulation of the Elections for Senators and Representatives in Congress.

The equality of Representation as States is also destroyed—The Legislative authority is divided into 2 branches, a house of Representatives and Senate. 6.13.21

In the house of Representatives the states cannot be said to have any share in the representation—as that branch is elected by the people in their moral capacity—but if the contrary should be alledged, yet the representation is unequal, the ratio of representation being in proportion to the number of inhabitants of which the States are respectively composed—In the Senate, indeed, they are equally represented, and in this instance it would appear to partake of the principles of a confederate government, but this feature of federalism is destroyed, as the mode of voting in the Senate is not by states but by voices, in the latter way the States may not be able to express their will for having two members who may vote differently on the same question, they may have two wills, a negative and a positive one. From whence it will appear that the only check which the states will possess in this or any other instance might be derived from their being electors of one Legislative branch of the general government.

From this concise view of the subject, it is evident, that the system is not constructed upon the principles of a federal republic, for wherever a federal feature appears in it it is united with the stronger impressions of consolidation, is neither raised upon an equality of rights or representation in the States. 6.13.22

The objects of a Confederacy being as before observed the preservation of the rights of the States and the States being the Creative principle, it is obvious that the Confederacy ought to depend upon the States for its existence but if we examine the present system, we will find that this principle is reversed and that the existence of the latter depends solely upon the former—and if we permit our sentiments on this occasion to be governed by the history of ages and the experience of mankind, as to the encroachments of power, when there is no constitutional or effectual bar to restrain them—we may safely venture to pronounce that it is not only possible but highly probable; that should the Constitution be adopted, it will ere long terminate in a consolidation of the United States into one general government. 6.13.23

It commences in a complete system of government—divided into Legislative, Executive, and Judicial Branches and totally independent of any 6.13.24

other power for its continuance—it has a perfect control over the elections of its members—it possesses power over all the resources of the country with the absolute and uncontrolled command of the military services of the people while the States are left wholly destitute of any means of support, but what they hold at the will and pleasure of the general government—They are divested of the power of commanding the services of their own Citizens and reduced to the degraded situations of public corporations by being rendered liable to suits. But if any thing farther was necessary to their total annihilation, the powers vested in the judicial department, which is rendered totally independent both as to the terms and emolument of their offices (except as to an increase of salary) and whose decrees are uncontrollable and fully competent to that purpose since it possesses still more extensive power, than the legislative and if possible still more dangerous to the existence of the States—for besides comprehending within its jurisdiction all the variety of cases, to which the other branches of government extend, it is authorized to determine upon all cases in law and equity arising under the Constitution etc.[12]—In every controversy therefore which may arise in cases where the States may be supposed to possess concurrent jurisdiction with the general government, as in the case of internal taxation, the decision of the supreme judicial upon equitable principles is to be final and by a fundamental principle of the government, these adjudications will be engrafted into the original compact. The more the powers of the general government are enlarged by these decisions the more extensive does the jurisdiction of the judges become. It is an old established maxim among lawyers that he is a good judge who enlarges the sphere of the jurisdiction of his Court—a maxim that has never failed to have been faithfully pursued—as instances we need only refer to the Courts of Kings Bench and Exchequer in England—but it will not require an extraordinary stretch of legal ingenuity in the judges to extend their power to every conceivable case and to collect into the sphere of their jurisdiction every judicial power which the States now possess.

6.13.25 The objects of this government as expressed in the preface to it, are "to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty"—These include every object for which government was established amongst man, and in every dispute about the powers granted, it is fair to infer that the means are commensurate with the end—and I believe we may venture to assert, that a good judge would not hesitate to draw this inference, especially when supported by the undefined powers granted by the 8th. section of the 1st. article and the construction that naturally arises from the prohibition against the creation of a nobility, a power which would otherwise appear to be neither expressly or impliedly granted.

6.13.26 I am sensible, it may be said, that the state governments are component parts of the general government and therefore that of necessity their exis-

tence must be preserved and that the Constitution has guaranteed to them a republican form[;] but this, on the least reflection, will appear to be too feeble a security to be relied on, when they are divested of every resource for their own support and the terms too indefinite to afford any security to the liberties of the people, as it includes in it the idea of an arbitrary aristocracy as well as of a free government—The form may exist without the substance. It will be remembered that this was the case in Rome when under a despotism—The Senate existed as formerly—Consuls, Tribunes etc. were chosen by the people—but their powers were merely nominal, as they were ruled by the will of the reigning Tyrant—and the most arbitrary ministers and judges generally preserve the forms of law, while they disregard its precepts and pervert them to the purposes of oppression.

From these observations, it is evident, that the general government is not 6.13.27
constructed upon federal principles, and that its operations will terminate in a dissolution of the States—That even if this should not be the case, they will be so enfeebled as not to afford that effectual security to the rights and liberties of the people, against the undue and extensive powers vested in the general government, as its advocates have led them to expect. This being the case, the objections which have been stated against the system, must appear to well founded—and it therefore becomes our indispensable duty to obviate them by suitable amendments calculated to abridge and limit the powers to general objects. The evils pointed out in the system are now within our power to remedy—but if we suffer ourselves to be influenced by specious reasoning unsupported by example to an unconditional adoption of an imperfect government, the opportunity will be forever lost, for history does not furnish a single instance of a government once established, voluntarily yielding up its powers to secure the rights and liberties of the people.

Remarks made in the N. Y. State Convention on the question as to the mode, in which the State should express its acceptance of the new Constitution. [*The motion to which this speech is directed was proposed by Smith—15 July. As Clinton seems to have spoken late in the debate (cf. p. 29) this was probably delivered on the 17 of July. Elliot 2. 411 and cf. Md. Adop of Const. p. 49.*[13] *showing no debate on 18.*]

Altho I came to the Convention impressed with an idea that the system of 6.13.28
Government proposed for our adoption was unsafe and dangerous to the liberties of the people and I conceive that the measures which were taken to introduce this change of govt. were equally exceptionable. Yet I was sensible that I was as all other men are liable to error and as I entertained a high opinion of the good sense, and patriotism of many of the gentlemen who advocated it, I came here with a firm determination to hear with coolness

and candor the arguments which might be offered in its favor and to give them their due weight.

6.13.29 I have therefore avoided taking any considerable part in the debates lest as is too apt to be the case, I might become prejudiced in favor of my own reasoning—the little that I have said, it must appear has been rather to raise objections with a view of having them answered than to support any opinion on either side of the question—I have listened with candor and attention to every argument that has been offered in support of the system when under debate by paragraphs and as far as I have been capable, I have given them their due weight, and if they had been such as would have convinced me that my first opinion was wrong, I would have cheerfully acquiesced and used my utmost endeavours by the same arguments to spread conviction among my constituents and to reconcile them to the plan.

6.13.30 Unfortunately, however, this has not been the case—some explanations indeed have been made of articles doubtful in their nature, which I never thought very material—but I can with great truth and sincerity declare that notwithstanding every thing I have yet heard the principal objections agt. the system remain in my mind unimpaired and in full force.

6.13.31 Nothing has been offered to convince my judgment that the representation is not too feeble and imperfect considering the extensive and undefined powers that are committed to this government, or that there is a sufficient degree of security under this Constitution that the will of the people will be the law. And this it must be admitted is the only true definition of a free government. Nor is there sufficient security afforded for the existence of the states sovty. which I consider the only stable security for the liberties of the people against the encroachments of power.

6.13.32 The system still appears to be radically defective in its organization—the most important legislative, judicial and executive powers being dangerously blended together in the President and Senate.—whereby responsibility is in a great measure destroyed.

The judicial department also appears to me equally defective—it is not however my intention at this time to enter into a detail of arguments to establish these points—it is not necessary to take up the time of the Committee in repeating arguments that have been already alledged by other gentlemen, especially as the amendments proposed which are calculated to cure these defects in some degree will naturally recal to the minds of gentlemen the reasons upon which they are founded.

6.13.33 In the cource of the debate some new doctrines have indeed been attempted to be established which if they could be supported would seem in a degree to obviate some of the objections that have been made to the system, to wit. that the only true security the people can have in a govt. is its being a representative governt. formed upon republican principles and a proper distribution of the Legislative, Judicial and Executive powers—

6.13.34 But it will be easily perceived that this doctrine is not only wrong in itself

but even a departure from the principles pursued by the very framers of this Governt. because we will find that it contains several limitations such as the suspension of the Writ of Habeas Corpus, the passing of Bills of attainder and Ex post facto laws and the creation of a nobility—Whereas if the doctrine attempted to be established was true in almost any extent these provisions would have been utterly unnecessary—for after having provided for the organization of the government and the due distribution of its powers the whole system might have been comprised in these words—Congress shall have power to provide for the common defence and general welfare and to make all laws which in their judgment may be necessary and proper for these purposes or in the words of the powers that were given to the Roman Dictators[,] To take care that the Republic receives no detriment.

The other principle I allude to will be found among the reasonings offered against the amendment rendering the Senate in a greater degree responsible to their Constituents than they now are. It will be remembered that it was alledged it would render them too dependent upon the will of the Legislatures of the States and that they might be influenced from pursuing the public good by the local views, passions and prejudices of their Constituents. I will only observe that these sentiments will not apply to a deliberative body and that it must appear that they are in every point of view contrary to the principles of a free representative government for if the representative is not to be subject to the will of his Constituents, lest he might be influenced to do wrong, but is in his representative capacity to express his own not their will, then it is evident that the will of a few must become their will, then it is evident that the will of a few must become the law, and this is the essence of Tyranny. 6.13.35

The Committee I trust will pardon me for this digression from the point in question. I shall now proceed to make some objections more particularly applicable to the question now before the Committee. 6.13.36

The motion on which the question arises [*Smith's motion of Tuesday 15. July Elliot. 2. 411*] is for postponing one previously made [*The "one previously made" was Jay's of 11 July.*] (the purport of which is to procure an unconditional adoption of the Constitution) and to introduce a different plan of adoption—The principal question that has been raised upon this subject, is whether the last mode will be such an adoption as that Congress can receive [the state so adopting] into the union.[14]

This matter has been so fully and ably debated by Gentlemen on both sides of the House, that it would be vain in me to attempt to offer any new arguments, as it is fairly exhausted—That doubts may be raised and supported with a great degree of plausibility upon almost any political subject is certain—that in all questions of this kind, where the matter might depend upon the will of a public who are perhaps as frequently if not more so governed by motives of political expediency than other considerations, the issue must be attended with a degree of uncertainty—I have weighed with 6.13.37

care and attention the arguments offered on both sides—I do not pretend to be capable of forming a perfect judgment upon the subject—but as far as my reasoning and reflection go, to me it appears that Congress may without a violation of the Constitution, receive the states on the terms of ratification proposed into the union—nay, I believe if they do not that their denial will not arise from the want of power. I believe I may venture to say that a refusal on this ground will be a more rigid adherence to compact and that too upon more refined constructive reasoning and metaphysical distinctions than ever a body of this kind adhered to before. I am persuaded there is not a State in the union, nay I question if there is in the world, who have not upon less interesting occasions made greater departure from the fundamental principles of the Government than this will be if it can be called a departure at all.—

6.13.38 I would ask whether in the establishment of this new Government, we find such a religious adherence to Compact—Has it not originated and grown into what it is from motives of political expediency? Has it not been submitted to upon this consideration alone? Have not all the measures that have introduced it and that are now bringing into action been in the force [*face?*] of compact, in direct violation of solemn plighted faith? Can this govt. ever be consistently with compact put into operation without the consent of every state in the union? Why then should we suppose upon this occasion that the states who have acceded to it contrary to original compact should hesitate to receive us when only justified in a refusal by refined and subtle distinctions? Would not this be indeed like swallowing a Camel and chocking with a gnat?

6.13.39 But by one Gentlmn. arguments have been alledged to show that it would not be the interest of the other states to receive us into the union[15]—Let us examine the matter upon this ground. I will not take up the Honble. Gentmn's. reasoning with respect to the increase or decrease of influence it might occasion to the greater or smaller states.—these might have weight if the Govt. was fairly and firmly established and brought into operation—but I humbly conceive they can have none in the present situation of affairs. I beg Gentm. to reflect upon the real situation of the U.S. as to the Govt. Let them cooly and calmly reflect whether it is probable that they will be able to establish and support it—against the will of so large a proportion of the Community from one end of the Continent to the other unless essential amendments take place and in the meantime a suspension of the exercise of certain powers most obnoxious to the people?

6.13.40 It has been observed by an Honble. Gentm. that it has had 11 verdicts in its favor, the Convention at Philadelphia and 10 other states, and that therefore, we ought to acquiesce in it.—That Gentm. well knows it is essential to a verdict that the Jury be unanimous, and in this veiw it will be found to have but very few verdicts indeed, and if we apply the evidence that may be drawn from the arguments to which we allude it affords the

strongest testimony[,] the testimony of its warmest friends and advocates, that it is dangerously and radically defective, since they have recommended essential amends.

Have Gentmn. the smallest hope that the question will be carried on the motion—have they not the most convincing proofs to the contrary? Will not a negative be a rejection? Have they any reason to suppose it will promote the peace and harmony of the state? I entreat Gentlemen to reflect what will be the consequence if this proposal should be rejected and question taken upon the original motion. 6.13.41

We have been told of the necessity there is for a spirit of conciliation and unanimity upon this important point—the honble. Gentm. has in the most lively and pathetic manner pointed out the calamities that would ensue our rising divided upon this subject—I will not repreat what has been said upon this occasion—because I conceive that many of the observations that were thrown out by the Honble. Gentm. were highly indiscreet and improper—I wish they may never be repeated out of these walls—I verily believe they will tend to occasion the evils which I hope they were intended to prevent. Gentlemen ought to consider that the Country is divided upon this question that they have made up decidedly their sentiments and are warmly engaged in the support of them—that from the most conclusive testimony, a large majority of the people are opposed to the unconditional adoption of the system—some respect ought surely to be paid to their opinions; it cannot be reasonably supposed that they will yield to minority without the least concessions on the part of the latter—and if we reason rightly I believe we will be convinced that the danger will chiefly be in a deviation from the will of a majority. 6.13.42

Mr. Chairman

altho' I have as I have before mentioned heard nothing in the Committee to change my opinion of the Constitution yet I shall be in favor of the present motion that I may have an opportunity of yielding my assent to the proposition made by the Honble. Gentm. from Dutchess. [*Melancton Smith*] I think it my duty at the same time to declare that I could only be induced to this from a strong attachment to the union—from a spirit of conciliation and an earnest desire to promote peace and harmony among the Citizens of the states to forward the interest and happiness of whom I am bound by ties uncommonly strong. 6.13.43

I shall conclude sir by just observing that I think the proposition is a reasonable one, that it contains nothing that can give offence or that can prevent its being accepted[;] its object is barely to prevent the immediate operation of powers the most odious to our Constituents until they can be considered by the people of America to whose decision we declare our willingness to submit. There is nothing in the Proposition that can prevent the Government's going into full operation and having full effect as to all essential National Concerns—These conditions go only as to the Mode of 6.13.44

changing the Government's Operations in the few instances mentioned in the Propositions.

6.13.45 I am convinced Sir, we have gone even beyond the will of our Constituents upon this occasion—but I have hopes that the reasons which have influenced us so to do will be satisfactory to them—

I will only add that the earnestness which has been discovered in this Committee to support most of the Clauses included among those termed conditional is with me an additional reason for holding them up in a conspicuous point of view as objects most wanting amendts.

Because I know most certainly that they are those which have given greatest Discontent—

1. The copy appears to have been made by an assistant and then gone over by Bancroft. While Bancroft's minor corrections of the text have been incorporated without notice, his comments and queries are printed here in brackets and italics. What appears to be his underlining has been omitted. Corrections of the present editor are printed in brackets without italics.

2. Hamilton argued against the recall of senators on 24 June (Elliot II, 303 ff.); he is not reported as having done so on 27 June, but may well have done so incidentally (Elliot II, 347–56).

3. Hamilton had argued: "After all our doubts, our suspicions, and speculations, on the subject of government, we must return at last to this important truth—that, when we have formed a constitution upon free principles, when we have given a proper balance to the different branches of administration, and fixed representation upon pure and equal principles, we may, with safety, furnish it with all the powers necessary to answer, in the most ample manner, the purpose of government. The great *disiderata* are, *free representation* and *mutual checks*. When these are obtained, all our apprehensions of the extent of power are unjust and imaginary. . . . Sir, when you have divided and nicely balanced the departments of government; when you have strongly connected the virtue of your rulers with their interest; when, in short, you have rendered your system as perfect as human forms can be,—you must place confidence; you must give power. . . . The true principle of government is this—make the system complete in its structure, give a perfect proportion and balance to its parts, and the powers you give it will never affect your security. The question, then, of the *division of powers* between the general and state governments, is a question of convenience; it becomes a prudential inquiry, what powers are proper to be reserved for the latter; and this immediately involves another inquiry into the proper objects of the two governments. This is the criterion by which we shall determine the just distribution of powers." Elliot II, 347–50. Cf. *The Federalist* no. 23.

4. See R. R. Livingston, Elliot II, 345; Hamilton, ibid. 355–56. Cf. *The Federalist* nos. 32–34.

5. Coke, *Institutes* II, proem. On the vagueness of the Constitution see references in Cato V, 2.6.34 n. 21.

6. See R. R. Livingston, Elliot II, 343–44. The amendment, proposed by Mr. John Williams, would have restricted the power of Congress to lay excise and direct taxes. Elliot II, 331–32.

7. Elliot II, 354–55.

8. Cf. references in Brutus IX, 2.9.110 n. 73.

9. Hamilton discusses this subject but he says nothing that could be construed into such an admission. Elliot II, 352–53. (But see Farrand I, 283 [18 June], where Hamilton confessed that "he was much discouraged by the amazing extent of Country in expecting the desired blessings from any general sovereignty that could be substituted" for the Confederation.) The more likely reference is to James Wilson who, in his widely reported speech of 24 November in the Pennsylvania ratifying conven-

tion, did say that "at first view the hand of despotism seemed necessary to control, connect and protect [the United States]; and hence our chief embarrassment arose." McMaster and Stone 220; the same speech (misdated 26 November) is reported in Elliot II, 421. See Centinel V, 2.7.94; on the large versus small republic see references in Cato III, 2.6.13 n. 8; Agrippa IV, 4.6.16 n. 10.

10. Vattel, *The Law of Nations or the Principles of Natural Law,* Intro., sec. 18.

11. For other Anti-Federalist discusssions of the true principle of federalism see Federal Farmer I, 2.8.10 n. 9.

12. Clinton appears here to be indebted to Brutus for some of his arguments. See Brutus XII, 2.9.145 ff.

13. I have been unable to identify this reference.

14. Smith proposed ratification but with reservations regarding certain objectionable parts of the Constitution. Elliot II, 411.

15. This part of the debates was not reported.

PART 2

Conclusion

Mercy Warren

History of the Rise, Progress and Termination of the American Revolution

(Chapter 31, with Excerpts from Chapter 30)

1805

Mercy Warren's *History of the Rise, Progress and Termination of the American Revolution, interspersed with Biographical, Political and Moral Observations,* was published in Boston in 1805.[1] Although it does not belong to the body of Anti-Federalist writing proper, its last chapter forms a fitting conclusion of the present collection and is reprinted here, along with a few extracts (enclosed in braces) from the next-to-last chapter. Charles Warren quite rightly describes this work of his ancestor as containing "the most accurate and temperate statement, by any contemporary, of the defects of the Constitution from the Anti-Federalist point of view, and of the grounds on which the opposition was founded."[2] Mrs. Warren's style is not to the taste of most modern readers. She is unquestionably verbose and demands a more leisurely reading than is our present custom. But if this hurdle can be o'er-leaped, as Mrs. Warren might say, the reader will learn much from her clear, well-balanced, shrewd, and surprisingly tough reflections on the early years of the Republic.[3]

Mrs. Warren describes the debate over the Constitution and the objections to it, and she sets down the reflections of an intelligent Anti-Federalist on the present and future of republican government in the United States. Even those parts of the chapter that seem little related to the Anti-Federalist argument, such as Mrs. Warren's cool, balanced account of Washington or her description of American foreign negotiations and entanglements, reveal more of the Anti-Federal position than many of the Anti-Federalist essays themselves.

The theme of chapter 31 (and the parts of 30 interpolated) is the danger of a decline in republican virtue and simplicity in the United States caused by foreign influence, commerce, complex and splendid government, and a forgetting of the principles of the American revolution. Mrs. Warren begins

with a picture of the fair condition and prospects of the United States after the revolution, when "nothing seemed to be wanting to the United States but a continuance of their union and virtue" (6.14.14). Difficulties soon arose, however, including economic distress, religious and moral decline, and a growing resentment of the impositions of government (6.14.16–23). Mrs. Warren describes the origin, course, and termination of Shays' insurrection, which strengthened the opinion that measures were needed to strengthen the Union (6.14.24–37). She then takes up the secret meetings of the Convention and the growth of monarchical and aristocratic ideas, and the objections of the Anti-Federalists to the proposed Constitution (6.14.38–44). Thanks to the opposition that was made, amendments were proposed which, on being accepted, largely allayed the fears of the people (6.14.45–51).

Turning to the new government under the Constitution, Mrs. Warren presents a lengthy account and criticism of Washington's political character and acts (6.14.52–65). She describes the rise of parties, the weakening of simple republicanism, and the growth of the spirit of finance (6.14.66–76). An account of the unpopular and unwise Jay treaty (6.14.77–84) leads to reflections on the desirability of a strict isolation of the United States from European politics and example and, at the same time, the invincibility of the thirst for wealth and the spirit of commerce to any barriers that might be erected (6.14.85–86). The wisdom of Washington's farewell advice to his countrymen to stay clear of foreign influence was tarnished by the fact that the corruption had already been allowed to take root during these critical early years of the Republic (6.14.87–104).

Mrs. Warren turns to a brief discussion of John Adams and particularly his monarchical tendencies (6.14.105–10), which leads her into a discussion of republican government in general and in postrevolutionary United States (6.14.112–36). She takes up and emphatically denies the charge that the free political inquiry characteristic of republics has led to the prevalent skepticism and demoralization (6.14.137–47).

Yet there are signs of religious, moral, and political decay in America; and Mrs. Warren spends the last part of the chapter reflecting on the evidence of this decay, its causes, and its probable course (6.14.148–79). Faced with what seems to be an inevitable corruption of republican simplicity and virtue by avarice, foreign influence, and the yearning for distinction, she nevertheless urges that, given the proper education of the youth of the United States, "there is not much danger that they will for a long time be subjugated by the arms of foreigners, or that their republican system will be subverted by the arts of domestic enemies" (6.14.157). The system of government laid down by the Constitution is perhaps as good as can be expected from man. It must be guarded against ambitious men, against the enemies of republican government, and against the tyranny of opinion. So

long as Americans can hold fast to the memory of the patriots and the principles of the Revolution, their republic, and with it their liberty, is safe.

1. The history has been republished by AMS Press, New York, 1971. On the writing, publication, and reception of the *History*, see Alice Brown, *Mercy Warren* (New York 1896) chs. 8–9; Katherine Anthony, *First Lady of the Revolution* (Garden City, N.Y., 1958), chs. 12–13.
2. Massachusetts Historical Society, *Proceedings* LXIV (1932), 157.
3. Mercy Warren was also the probable author of the pamphlet by A Columbian Patriot (see 4.28 intro.).

Chapter XXXI.

The narration of the revolutionary war between Great Britain and her former colonies, brought down to its termination, leaves the mind at leisure for more general observations on the subsequent consequences, without confining it to time or place. 6.14.1

At the conclusion of the war between Great Britain and America, after the rejection of the claims of a potent foreign nation, the dissevering of old bands of governmental arrangement, and before new ones were adopted, the proud feelings of personal independence warmed every bosom, and general ideas of civil and religious liberty were disseminated far and wide.

On the restoration of peace, the soldier had returned to the bosom of his family, and the artisan and the husbandman were stimulated to new improvements; genius was prompted to exertion, by the wide field opened by the revolution, and encouraged by the spirit of inquiry to climb the heights of literature, until it might stand conspicuous on the summit of fame.

Under such circumstances, every free mind should be tenacious of supporting the honor of a national character, and the dignity of independence. This claim must be supported by their own sobriety, economy, industry, and perseverance in every virtue. It must be nurtured by that firmness and principle that induced their ancestors to fly from the hostile arm of tyranny, and to explore and begin a new nation in the forlorn and darksome bosom of a distant wilderness. The social compacts, the religion, the manners, and the habits of these wandering strangers, and their immediate successors, taught their sons the noble example of fortitude and love of freedom, that has led them to resist the encroachments of kings and nobles, and to dissipate the cloud that threatened to envelope the mind in darkness, and spread the veil of ignorance over the bright hemisphere that encircles the children of Columbia. 6.14.2

Indeed America was at this period possessed of a prize, replete with advantages seldom thrown into the hand of any people. Divided by nature from three parts of the globe, which have groaned under tyrants of various 6.14.3

descriptions, from time immemorial, who have slaughtered their millions to feed the ambition of princes, she was possessed of an immense territory, the soil fertile and productive, her population increasing, her commerce unfettered, her resources ample. She was now uncontrolled by foreign laws; and her domestic manufactures might be encouraged, without any fear of check from abroad: and under the influence of a spirit of enterprise, very advantageous in a young country, she was looking forward with expectations of extending her commerce to every part of the globe.

6.14.4 {In a country like America, including a vast variety of soil and climate, producing every thing necessary for convenience and pleasure, every man might be lord of his own acquisition.[1] It was a country where the standard of freedom had recently been erected, to allure the liberal minded to her shores, and to receive and to protect the persecuted subjects of arbitrary power, who might there seek an asylum from the chains of servitude to which they had been subjected in any part of the globe. Here it might rationally be expected, that beside the natural increase, the emigrations to a land of such fair promise of the blessings of plenty, liberty, and peace, to which multitudes would probably resort, there would be exhibited in a few years, a population almost beyond the calculation of figures.

6.14.5 {The extensive tract of territory above described, on the borders of the Atlantic, had, as we have seen, been divided into several distinct governments, under the control of the crown of Great Britain; these governments were now united in a strong confederacy, absolutely independent of all foreign domination: the several states retained their own legislative powers; they were proud of their individual independence, tenacious of their republican principles, and newly emancipated from the degrading ideas of foreign control, and the sceptred hand of monarchy. With all these distinguished privileges, deeply impressed with the ideas of internal happiness, we shall see they grew jealous of each other, and soon after the peace, even of the powers of the several governments erected by themselves: they were eager for the acquisition of wealth, and the possession of the new advantages dawning on their country, from their friendly connexions abroad, and their abundant resources at home.

6.14.6 {At the same time that these wayward appearances began early to threaten their internal felicity, the inhabitants of America were in general sensible, that the freedom of the people, the virtue of society, and the stability of their commonwealth, could only be preserved by the strictest union; and that the independence of the United States must be secured by an undeviating adherence to the principles that produced the revolution.

6.14.7 {These principles were grounded on the natural equality of man, their right of adopting their own modes of government, the dignity of the people, and that sovereignty which cannot be ceded either to representatives or to kings. But, as a certain writer has expressed it,—"Powers may be delegated for particular purposes; but the omnipotence of society, if any where, is in

itself. Princes, senates, or parliaments, are not proprietors or masters; they are subject to the people, who form and support that society, by an eternal law of nature, which has ever subjected a part to the whole.''*

{These were opinions congenial to the feelings, and were disseminated by the pens, of political writers; of Otis, Dickinson, Quincy,† and many others, who with patience and energy had defended the liberties of America, previous to the commencement of hostilities.

{On these principles, a due respect must ever be paid to the general will; 6.14.8
to the right in the people to dispose of their own monies by a representative voice; and to liberty of conscience without religious tests: on these principles, frequent elections, and rotations of office, were generally thought necessary, without precluding the indispensable subordination and obedience due to rulers of their own choice. From the principles, manners, habits, and education of the Americans, they expected from their rulers, economy in expenditure, (both public and private,) simplicity of manners, pure morals, and undeviating probity. These they considered as the emanations of virtue, grounded on a sense of duty, and a veneration for the Supreme Governor of the universe, to whom the dictates of nature teach all mankind to pay homage, and whom they had been taught to worship according to revelation, and the divine precepts of the gospel. Their ancestors had rejected and fled from the impositions and restrictions of men, vested either with princely or priestly authority: they equally claimed the exercise of private judgment, and the rights of conscience, unfettered by religious establishments in favor of particular denominations.

{They expected a simplification of law; clearly defined distinctions be- 6.14.9
tween executive, legislative, and judiciary powers: the right of trial by jury, and a sacred regard to personal liberty and the protection of private property, were opinions embraced by all who had any just ideas of government, law, equity, or morals.

{These were the rights of men, the privileges of Englishmen, and the claim of Americans: these were the principles of the Saxon ancestry of the British empire, and of all the free nations of Europe, previous to the corrupt systems introduced by intriguing and ambitious individuals.

*See Lessons to a Prince, by an anonymous writer.[2]

†The characters of Dickenson and Otis are well known, but the early death of Mr. *Quincy* prevented his name from being conspicuous in the history of American worthies. He was a gentleman of abilities and principles which qualified him to be eminently useful, in the great contest to obtain and support the freedom of his country. He had exerted his eloquence and splendid talents for this purpose, until the premature hand of death deprived society of a man, whose genius so well qualified him for the investigation of the claims, and the defence of the rights of mankind. He died on his return from a voyage to Europe, a short time before war was actually commenced between Great Britain and the colonies.

The writings of the above named gentlemen, previous to the commencement of the war, are still in the hands of many.

6.14.10 {These were the opinions of Ludlow and Sydney, of Milton and Harrington: these were principles defended by the pen of the learned, enlightened, and renowned Locke; and even judge Blackstone, in his excellent commentaries on the laws of England, has observed, "that trial by jury and the liberties of the people went out together."[3] Indeed, most of the learned and virtuous writers that have adorned the pages of literature from generation to generation, in an island celebrated for the erudite and comprehensive genius of its inhabitants, have enforced these rational and liberal opinions.

6.14.11 {These were the principles which the ancestors of the inhabitants of the United States brought with them from the polished shores of Europe, to the dark wilds of America: these opinions were deeply infixed in the bosoms of their posterity, and nurtured with zeal, until necessity obliged them to announce the declaration of the independence of the United States. We have seen that the instrument which announced the final separation of the American colonies from Great Britain, was drawn by the elegant and energetic pen of Jefferson, with that correct judgment, precision, and dignity, which have ever marked his character.

6.14.12 {The declaration of independence, which has done so much honor to the then existing congress, to the inhabitants of the United States, and to the genius and heart of the gentleman who drew it, in the belief, and under the awe, of the Divine Providence, ought to be frequently read by the rising youth of the American states, as a palladium of which they should never lose sight, so long as they wish to continue a free and independent people.

6.14.13 {This celebrated paper, which will be admired in the annals of every historian, begins with an assertion, that all men are created equal, and endowed by their Creator with certain unalienable rights, which nature and nature's God entitle them to claim; and, after appealing to the Supreme Judge of the world for the rectitude of their intentions, it concludes in the name of the *good people* of the *colonies*, by their representatives assembled in congress, they publish and declare, that they are, and of right ought to be, Free and Independent States: in the *name* of the *people*, the foundation of all just authority, relying on the protection of Divine Providence, they mutually pledged themselves to maintain these rights, with their lives, fortunes, and honor.}

6.14.14 Nothing seemed to be wanting to the United States but a continuance of their union and virtue. It was their interest to cherish true, genuine republican virtue, in politics; and in religion, a strict adherence to a sublime code of morals, which has never been equalled by the sages of ancient time, nor can ever be abolished by the sophistical reasonings of modern philosophers. Possessed of this palladium, America might bid defiance both to foreign and domestic intrigue, and stand on an eminence that would command their veneration of nations, and the respect of their monarchs: but a defalcation from these principles may leave the sapless vine of liberty to

droop, or to be rooted out by the hand that had been stretched out to nourish it.

6.14.15 If, instead of the independent feelings of ancient republics, whose prime object was the welfare and happiness of their country, we should see a dereliction of those principles, and the Americans ready to renounce their great advantages, by the imitation of European systems in politics and manners, it would be a melancholy trait in the story of man: yet they, like other nations, may in time, by their servility to men in power, or by a chimerical pursuit of the golden fleece of the poets, become involved in a mist ascending from the pit of avarice. This may lead to peculation, to usurious contracts, to illegal and dishonest projects, and to every private vice, to support the factitious appearances of grandeur and wealth, which can never maintain the claim to that rich inheritance which they so bravely defended.

6.14.16 Thus it was but a short time after the restoration of peace, and the exhilarating view of the innumerable benefits obtained by the general acknowledgment among foreign nations of the independence of America, before the brightened prospect, which had recently shone with so much splendor, was beclouded by the face of general discontent. New difficulties arose, and embarrassments thickened, which called for the exercise of new energies, activity, and wisdom.

6.14.17 The sudden sinking of the value of landed, and indeed of all other real property, immediately on the peace, involved the honest and industrious farmer in innumerable difficulties. The produce of a few acres had been far from sufficient for the support of a family, and at the same time to supply the necessary demands for the use of the army, when from the scarcity of provisions every article thereof bore an enhanced price, while their resources were exhausted, and their spirits wasted under an accumulated load of debt.

6.14.18 The general congress was yet without any compulsory powers, to enforce the liquidation of public demands; and the state legislatures totally at a loss how to devise any just and ready expedient for the relief of private debtors. It was thought necessary by some to advert again to a paper medium, and by others this was viewed with the utmost abhorrence: indeed the iniquitous consequences of a depreciating currency had been recently felt too severely, by all classes, to induce any to embrace a second time with cordiality such a dangerous expedient. Thus, from various circumstances, the state of both public and private affairs presented a very serious and alarming aspect.

6.14.19 The patriotic feelings of the yeomanry of the country, had prompted them to the utmost exertions for the public service. Unwilling to withhold their quota of the tax of beef, blankets, and other necessaries indispensable for the soldiery, exposed to cold and hunger, many of them had been induced to contract debts which could not be easily liquidated, and which it was impos-

sible to discharge by the products from the usual occupations of husbandry. While at the same time, the rage of privateering and traffic, by which some had suddenly grown rich, had induced others to look with indifference on the ideas of a more moderate accumulation of wealth. They sold their patrimonial inheritance for trifling considerations, in order to raise ready specie for adventure in some speculative project. This, with many other causes, reduced the price of land to so low a rate, that the most valuable farms, and the best accommodated situations, were depreciated to such a degree, that those who were obliged to alienate real property were bankrupted by the sales.

6.14.20 The state of trade, and the derangement of commercial affairs, were equally intricate and distressing at the close of the war. The natural eagerness of the mercantile body to take every advantage that presented in that line, induced many, immediately on the peace, to send forward for large quantities of goods from England, France, and Holland, and wherever else they could gain a credit. Thus the markets loaded with every article of luxury, as well as necessaries, and the growing scarcity of specie united with the reduced circumstances of many who had formerly been wealthy, the enormous importations either lay upon hand, or obliged the possessor to sell without any advance, and in many instances much under the prime cost. In addition to these embarrassments on the mercantile interest, the whole country, from north to south, was filled with British factors, with their cargoes of goods directly from the manufacturers, who drew customers to their stores from all classes that were able to purchase. Every capital was crowded with British agents, sent over to collect debts contracted long before the war, who took advantage of the times, oppressed the debtor, and purchased the public securities from all persons whose necessities obliged them to sell, at the monstrous discount of seventeen shillings and six pence on the pound. At the same time, the continent swarmed with British emissaries, who sowed discord among the people, infused jealousies, and weakened their reliance on the public faith, and destroyed all confidence between man and man.

6.14.21 Nor did religion or morals appreciate amidst the confusion of a long war, which is ever unfavorable to virtue, and to all those generous principles which ennoble the human character, much more than ribbons, stars, and other playthings of a distempered imagination. These soon sink to the level of their own insignificance, and leave the sanguine admirer sickened by the chace of ideal felicity.

6.14.22 The wide field of more minute observation on these great and important subjects, shall at present be waved. Agriculture may be left to the philosophic theorist, who may speculate on the real value and product of the lands, in a country in such an improveable state as that of America; while the advance in the profits of the husbandman must be estimated by the ratio of future experiment. The statesman versed in the commerce and politics of

Europe, and the commercial treaties which may be, or have already been formed, has a labyrinth to trace, and investigations to unfold, before every thing can be fixed on the principles of equity and reciprocity, that will give complete satisfaction to all nations. Religious discussions we leave to the observation of the theologian, who, however human nature may be vilified by some and exalted by others, traces the moral causes and effects that operate on the soul of man. The effects only are level to the common eye, which weeps that the result is more frequently productive of misery than felicity to his fellow beings.

6.14.23 Besides the circumstances already hinted, various other combinations caused a cloud of chagrin to sit on almost every brow, and a general uneasiness to pervade the bosoms of most of the inhabitants of America. This was discoverable on every occasion; they complained of the governments of their own instituting, and of congress, whose powers were too feeble for the redress of private wrongs, or the more public and general purposes of government. They murmured at the commutation which congress had agreed to, for the compensation of the army. They felt themselves under the pressure of burdens, for which they had not calculated; the pressure of debts and taxes beyond their ability to pay. These discontents artificially wrought up, by men who wished for a more strong and splendid government, broke out into commotion in many parts of the country, and finally terminated in open insurrection in some of the states.

6.14.24 This general uneasy and refractory spirit had for some time shewn itself in the states of New Hampshire, Rhode Island, Connecticut, and some other portions of the union; but the Massachusetts seemed to be the seat of sedition. Bristol, Middlesex, and the western counties, Worcester, Hampshire, and Berkshire, were more particularly culpable. The people met in county conventions, drew up addresses to the general assembly, to which were annexed long lists of grievances, some of them real, others imaginary. They drew up many resolves, some of which were rational, others unjust, and most of them absurd in the extreme. They censured the conduct of the officers of government, called for a revision of the constitution, voted the senate and judicial courts to be grievances, and proceeded in a most daring and insolent manner to prevent the sitting of the courts of justice, in the several counties.

6.14.25 The ignorance* of this incendiary and turbulent set of people, might lead them to a justification of their own measures, from a recurrence to transactions in some degree similar in the early opposition to British government. They had neither the information, nor the sagacity to discern the different grounds of complaint. Nor could they make proper distinctions with regard

*Some of them indeed were artful and shrewd, but most of them were deluded and persuaded to attempt, by resistance to government, to relieve themselves from debts which they could not pay, and from the hand of tax-gatherers, who had distrained in some instances to the last article of their property.

to the oppressions complained of under the crown of Britain, and the temporary burdens they now felt, which are ever the concomitants and consequences of war. They knew that a successful opposition had been made to the authority of Britain, while they were under the dominion of the king of England; but they were too ignorant to distinguish between an opposition to regal despotism, and a resistance to a government recently established by themselves.

6.14.26 County meetings and conventions, and the opposition of the body of the people to submit to judiciary proceedings, in direct violation of their charter, and the stipulated indulgencies which they claimed in common with their fellow subjects in Great Britain, wore a very different aspect from those of the clamorous and tumultuary proceedings of the Massachusetts' insurgents. These were violating the constitutions of their own forming, and endeavouring to prostrate all legal institutions, before they were cemented on the strong basis of a firm and well established government.

6.14.27 Those disturbances were for a time truly alarming, and gave cause for serious apprehensions that civil convulsions might spread through the country within the short term of three or four years after independence had been established, and peace restored to the United States of America. Under existing circumstances, the high-handed and threatening proceedings of the insurgents wore a very formidable aspect. There were among them very many men hardy, bold and veteran, who had been very serviceable in the field during the late revolutionary war. They had assembled in great numbers, in various places, and at different times, and seemed to bid defiance to all law, order, and government.

6.14.28 In the winter of one thousand seven hundred and eighty-six, several thousands of those disorderly persons armed and embodied, and appeared in the environs of Springfield. They chose for their leader a man who had been a subaltern officer* in the revolutionary war, threatened to march to Boston, and by compulsory measures oblige the governor and general assembly to redress the grievances of the people, which they alleged were brought upon them by enormous taxation, and other severities from their own government: they however thought proper to send forward a petition instead of marching sword in hand to the capital.

6.14.29 In the mean time, the exertions and the resolves of the legislative body, with a view of relieving the public distresses, only increased the discontents of the people. They were much divided in opinion, relative to the best modes of quieting the disturbances. Tender laws and sumptuary regulations were superficial expedients, that like paper money eventually would increase, rather than eradicate the evils complained of; while the temper of the people of various descriptions, and from various motives, augured an

*Daniel Shays.

approaching crisis that might produce convulsions too extensive for calculation.

In this situation of affairs, the governor was empowered by the legislature 6.14.30
to order a military force to be in readiness to march, under the command of general Lincoln. The temerity of the insurgents had emboldened them to move forward in hostile array, which made it necessary to direct general Lincoln to give a check to their insolence, and to restore peace and order to the state. But before the troops from the lower counties had collected at Worcester, great numbers of the insurgents had embodied, and moved forward to Springfield, with a design to attack the continental arsenal: this was defended by general Shepard, who took every precaution to prevent the shedding of blood. He expostulated with their leaders, and warned them against the fatal consequences of perseverance in their rebellious and hostile proceedings: they however neglected the warning, and rushed on in the face of danger; this obliged general Shepard to fire upon them, which so disconcerted them that they immediately retreated. General Lincoln reached Springfield about the same time, which entirely defeated this project; the field was left with dismay, and with the loss only of two or three of their party. The next movement of any importance was their again collecting from all quarters, and taking a position on the heights of Pelham.

General Lincoln, unwilling to see his countrymen involved in a war 6.14.31
among themselves, passed on to Hadley without proceeding to extremities. There he received letters from some of the leaders of the insurgent parties, and with his usual mildness and humanity endeavoured to persuade them to quit their hostile parade, and by their peaceable demeanor to render themselves worthy of the lenity of government, which was ready, on their return to proper submission, to extend a general pardon, and throw a veil of oblivion over past transactions: but there appeared no signs of repentance, or of a relinquishment of their atrocious projects; and though without system, or any determinate object, and without men of talents to direct, or even to countenance, their disorderly conduct, in any stage of the business, they soon moved from Pelham in a strong body, entered and halted in the town of Petersham.

General Lincoln heard of the decampment of Shays and his followers 6.14.32
from Pelham, at twelve o'clock, and had certain intelligence by the hour of six that they had moved on to Petersham. Convinced of the necessity of a quick march, he ordered his troops to be ready at a moment's morning [warning?]. By eight o'clock they began their route. Notwithstanding the intrepidity of general Lincoln, when immediate hazard required enterprise, he would not have exposed his troops to a march of thirty miles, in one of the severest nights of a remarkably severe winter, had not the entrance of the evening been mild and serene. The sky unclouded, and the moon in full splendor, they began their march under the promise of a more easy termina-

tion; but after a few hours the wind rose, the clouds gathered blackness, and the cold was so intense that it was scarcely supportable by the hardiest of his followers: nothing but the quickness of their motion prevented many of his men from falling victims to the severity of the season. The difficulty of their march was increased by a deep snow that had previously fallen, and lain so uncemented that the gusts drove it in the faces of the army with the violence of a rapid snow storm. They however reached Petersham before nine o'clock the next morning, but so miserably fatigued and frost bitten, that few of them were fit for service; and had not a general panic seized the insurgents, on the first alarm of the approach of the government troops, they might have met them with great slaughter, if not with total defeat; but though in warm quarters, well supplied with arms and provisions, they left this advantageous post with the greatest precipitation, and fled in all directions.

6.14.33 General Lincoln was not in a capacity for immediate pursuit; it was necessary to halt and refresh his men: besides, his known humanity was such, that he might be willing they should scatter and disappear, without being pushed to submission by the point of the sword. The insurgents never again appeared in a collective body, but spread themselves over the several parts of the western counties, and even into the neighbouring states, plundering, harassing, and terrifying the inhabitants, and nourishing the seeds of discontent and sedition, that had before been scattered amongst them. It was not long before general Lincoln pursued and captured many of them, who implored and experienced the clemency of the commander, and only a few were taken into custody for future trial. Thus those internal commotions, which had threatened a general convulsion, were so far quelled, that most of the troops returned to Boston early in the spring. Before his return, general Lincoln marched to the borders of the state, and found many in the counties of Hampshire and Berkshire, ready to take the oath of allegiance, with all the marks of contrition for their late guilty conduct. Commissioners were afterwards sent forward, with powers to pardon, after due inquiry into the present temper and conduct of individuals: to administer the oath of allegiance to the penitent, and to restore to the confidence of their country all such as were not stigmatized by flagitious and murderous conduct.

6.14.34 Perhaps no man could have acted with more firmness, precision, and judgment, than did governor Bowdoin, through the turbulent period of two years, in which he presided in the Massachusetts: yet notwithstanding his conspicuous talents, and the public and private virtues which adorned his character, the popular current set strongly against him on the approaching annual election; and governor Hancock, who had once resigned the chair, was again requested to resume his former dignified station, and was brought forward and chosen with *eclat* and expectation. He did not however contravene the wise measures of his predecessor. He was equally vigilant to quiet the perturbed spirits of the people, and to restore general tranquillity:

this he did by coercive or lenient measures, as circumstances required; and by his disinterested conduct, and masterly address, he was very influential in overcoming the remains of a factious and seditious spirit that had prevailed. Thus he did himself much honor, and acquired the applause of his constituents.

The governor was authorised by the legislature to keep in pay any number of troops that might be thought necessary to preserve the public peace. Eight hundred men were stationed on the western borders of the state, but before the summer elapsed the insurgents were so generally subdued that the troops were recalled and dismissed. 6.14.35

The governors of all the neighbouring states had been requested not to receive or protect any of the guilty party, who had fled for security within their limits. These were all so sensibly impressed with the danger of disunion and anarchy, which had threatened the whole, that they readily gave assurances of detection, if any should flatter themselves with impunity, by flying without the jurisdiction of their own government. Several of the most notorious offenders were secured, and tried by the supreme judicial court, and received sentence of death; but the compassion of the people, coinciding with the humane disposition of the governor, induced him to grant reprieves from time to time, and finally prevented the loss of life by the hand of civil justice, in a single instance. 6.14.36

Thus, by well-timed lenity, and decided energy, as the exigencies of the moment required, was terminated an insurrection, that, by its dangerous example, threatened the United States with a general rupture, that might have been more fatal than foreign war, to their freedom, virtue, and prosperity. But though the late disturbances were quelled, and the turbulent spirit, which had been so alarming, was subdued by a small military force, yet it awakened all to a full view of the necessity of concert and union in measures that might preserve their internal peace. This required the regulation of commerce on some stable principles, and some steps for the liquidation of both public and private debts. They also saw it necessary to invest congress with sufficient powers for the execution of their own laws, for all general purposes relative to the union. 6.14.37

A convention was appointed by the several states, to meet at Annapolis, in the state of Maryland, in the year one thousand seven hundred and eighty-six, for these salutary purposes; but the work was too complicated: the delegates separated without doing any thing, and a new convention was called the next year, to meet at Philadelphia, with the same design, but without any enlargement of their powers; they however framed a new constitution of government, and sent it for the consideration and adoption of the several states: and though it was thought by many to be too strongly marked with the features of monarchy, it was, after much discussion, adopted by a majority of the states. 6.14.38

We must consult the human heart, says the marquis Beccaria, for the 6.14.39

foundation of the rights of both sovereign and people. "If we look into history, we shall find, that laws which are or ought to be conventions between men in a state of freedom, have been, for the most part, the work of the passions of a few, or the consequences of a fortuitous, temporary necessity, not dictated by a cool examiner of human nature, who knew how to collect in one point the actions of a multitude, and had this only end in view, *the greatest happiness of the greatest number.*"[4]

6.14.40 It was thought by some, who had been recently informed of the secret transactions of the convention at Philadelphia, that the greatest happiness of the greatest number was not the principal object of their contemplations, when they ordered their doors to be locked, their members inhibited from all communications abroad, and when proposals were made that their journals should be burnt, lest their consultations and debates should be viewed by the scrutinizing eye of a free people.* These extraordinary movements appeared to them the result of the passions of a few. It is certain, that truth, whether moral, philosophical, or political, shrinks not from the eye of investigation.

6.14.41 The ideas of royalty, or any thing that wore the appearance of regal forms and institutions, were generally disgusting to Americans, and particularly so to many characters who early came forward, and continued to the end of the conflict, stedfast in opposition to the crown of Britain. They thought that after America had encountered the power, and obtained a release from foreign bondage, and had recently overcome domestic difficulties and discontents, and even quieted the spirit of insurrection in their own states; that the republican system for which they had fought, should not be hazarded by vesting any man or body of men with powers that might militate with the principles, which had been cherished with fond enthusiasm, by a large majority of the inhabitants throughout the union.

6.14.42 Republicanism, the idol of some men, and independence, the glory of all, were thought by many to be in danger of dwindling into theory; the first had been defaced for a time, by a degree of anarchy, and fears were now awakened that the last might be annihilated by views of private ambition.

6.14.43 The people were generally dissatisfied with the high pretensions of the officers of the army, whose equality of condition previous to the war, was, with few exceptions, on the same grade with themselves. The assumption of an appropriate rank was disgusting, in a set of men, who had most of them been taken from mechanic employments, or the sober occupations of ag-

*This convention was composed of some gentlemen of the first character and abilities; of some men of shining talents and doubtful character: some of them were uniform republicans, others decided monarchists, with a few neutrals, ready to join the strongest party. It was not strange there was much clashing and debate, where such dissentient opinions existed: but after some modification and concession, a constitution was formed, which when the amendments took place immediately on its adoption, the government of the United States stood on a basis which rendered the people respectable abroad and safe at home.

riculture. Thus jealousies were diffused, with regard to the officers of the old army, the Cincinnati, and several other classes of men, whom they suspected as cherishing hopes and expectations of erecting a government too splendid for the taste and professions of Americans. They saw a number of young gentlemen coming forward, ardent and sanguine in the support of the principles of monarchy and aristocracy. They saw a number of professional characters too ready to relinquish former opinions, and adopt new ones more congenial to the policy of courts, than to the maxims of a free people. They saw some apostate whigs in public employments, and symptoms of declension in others, which threatened the annihilation of the darling opinion, that the whole sovereignty in the republican system is in the people: "that the people have a right to amend and alter, or annul their constitution and frame a new one, whenever they shall think it will better promote their own welfare and happiness to do it."*

6.14.44 This brought forward objections to the proposed constitution of government, then under consideration. These objections were not the result of ignorance; they were made by men of the first abilities in every state; men who were sensible of the necessity of strong and energetic institutions, and a strict subordination and obedience to law. These judicious men were solicitous that every thing should be clearly defined; they were jealous of each ambiguity in law or government, or the smallest circumstance that might have a tendency to curtail the republican system, or render ineffectual the sacrifices they had made, for the security of civil and religious liberty to themselves; they also wished for the transmission of the enjoyment of the equal rights of man to their latest posterity. They were of opinion, that every article that admitted of doubtful construction, should be amended, before it became the supreme law of the land. They were now apprehensive of being precipitated, without due consideration, into the adoption of a system that might bind them and their posterity in the chains of despotism, while they held up the ideas of a free and equal participation of the privileges of pure and genuine republicanism.

6.14.45 Warm debates in favor of further consideration, and much energetic argument took place, between gentlemen of the first abilities, in several of the state conventions. The system was however ratified in haste by a sufficient number of states to carry it into operation, and amendments left to the wisdom, justice, and decision of future generations, according as exigencies might require.† This was not sufficient to dissipate the apprehensions of gentlemen who had been uniform and upright in their intentions, and immoveably fixed in the principles of the revolution, and had never turned their eyes from the point in pursuit, until the independence of America was acknowledged by the principal monarchs in Europe.

*Lessons to a Prince.[5]

†Many amendments were made soon after the adoption of the constitution.

6.14.46 But while the system was under discussion, strong objections were brought forward in the conventions of the several states. Those gentlemen who were opposed to the adoption of the new constitution *in toto,* observed, that there was no bill of rights to guard against future innovations. They complained that the trial by jury in civil causes was not secured; they observed, that some of the warmest partisans, who had been disposed to adopt without examination, had started at the discovery, that this essential right was curtailed; that the powers of the executive and judiciary were dangerously blended: that the appellate jurisdiction of the supreme federal court, subjected the inhabitants of the United States, by a litigious process that militated with the rights formerly claimed by the individual states, to be drawn from one end of the continent to the other, for trial. They wished for a rotation in office, or some sufficient bar against the perpetuity of it, in the same hands for life; they thought it necessary there should be this check to the overbearing influence of office, and that every man should be rendered ineligible at certain periods, to keep the mind in equilibrio, and teach him the feelings of the governed, and better qualify him to govern in his turn. It was also observed by them, that all sources of revenue formerly possessed by the individual states were now under the control of congress.

6.14.47 Subsequent measures were not yet realized; banks, monopolies, and a funding system, were projects that had never been thought of, in the early stages of an infant republic, and had they been suggested before the present period, would have startled both the soldier and the peasant. The sober principled statesmen, and the judicious band of worthies, who originated the system of freedom, digested it in the cabinet, and conducted the public councils, which led to the independence of America, with a firm, disinterested magnanimity, and an energy seldom found in the courts of princes would have revolted at those ideas. Nor were they less alarmed at the contemplation of a president with princely powers, a sextennial senate, biennial elections of representatives, and a federal city, "whose cloud-capt towers" might screen the state culprit from the hand of justice, while its exclusive jurisdiction might, in some future day, protect the riot of standing armies encamped within its limits. These were prospects viewed by them with the utmost abhorrence.

6.14.48 Indeed the opinions of the gentlemen who formed the general convention, differed very widely, on many of the articles of the new constitution, before it was sent abroad for the discussion of the people at large. Some of them seceded, and retired without signing at all, other complied from a conviction of the necessity of accommodation and concession, lest they should be obliged to separate without any efficient measures, that would produce the salutary purposes for which many characters of the first abilities had been convened. The philosophic doctor Franklin observed, when he lent his signature to the adoption of the new constitution, "that its complexion was doubtful; that it might last for ages, involve one quarter of the globe, and

probably terminate in despotism,''* He signed the instrument for the consolidation of the government of the United States with tears, and apologized for doing it at all, from the doubts and apprehensions he felt, that his countrymen might not be able to do better, even if they called a new convention.

6.14.49 Many of the intelligent yeomanry and of the great bulk of independent landholders, who had tasted the sweets of mediocrity, equality, and liberty, read every unconditional ratification of the new system in silent anguish, folded the solemn page with a sigh, and wept over the manes of the native sons of America, who had sold their lives to leave the legacy of freedom to their children. On this appearance of a consolidated government, which they thought required such important amendments, they feared that a dereliction of some of their choicest privileges might be sealed, without duly considering the fatal consequences of too much precipitation. ''The right of taxation, and the command of the military,'' says an ingenious writer, ''is the completion of despotism.''[7] The last of these was consigned to the hands of the president, and the first they feared would be too much under his influence. The observers of human conduct were not insensible, that too much power vested in the hands of any individual, was liable to abuses, either from his own passions, or the suggestions of others, of less upright and immaculate intentions than himself.

6.14.50 Of thirteen state conventions, to which the constitution was submitted, those of Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, and Georgia, ratified it unconditionally, and those of New Hampshire, Massachusetts, New York, Virginia, and South Carolina, in full confidence of amendments, which they thought necessary, and proposed to the first congress; the other two, of Rhode Island and North Carolina, rejected it. Thus, it is evident that a majority of the states were convinced that the constitution, as at first proposed, endangered their liberties; that to the opposition in the federal and state conventions, are the public indebted for the amendments and amelioration of the constitution, which have united all parties in the vigorous support of it; and that in a land of freedom, sovereignty, and independence, the great and important affairs of state will be finally subject to reason, justice, and sound policy.

6.14.51 Thus, notwithstanding the many dark appearances, that for a time spread a cloud over the United States; notwithstanding the apprehensions and prejudices against the new constitution, which had pervaded the minds of many; though strong parties had arisen, and acrimonious divisions were fomented, on the great and important question of ratification; yet, by the mode adopted by five states, of proposing amendments at the time of ratifying it, the fears of the people in general evaporated by degrees. The new constitution was adopted with applause and success, and the promise

*See doctor Franklin's speech, on his signing the articles of the new constitution of government, which was to be laid before the people.[6]

and the expectations of amendments, flattered all classes with every advantage that could be rationally expected.

6.14.52 The new system of government was ushered into existence under peculiar advantages; and no circumstance tended more rapidly to dissipate every unfavorable impression, than the unanimous choice of a gentleman to the presidential chair, at once meritorious, popular, and beloved, beyond any man. Washington, the favorite of every class of people, was placed at the head of a government of experiment and expectation. Had any character of less popularity and celebrity been designated to this high trust, it might at this period have endangered, if not have proved fatal to the peace of the union. Though some thought the executive vested with too great powers to be entrusted to the hand of any individual, Washington was an individual in whom they had the most unlimited confidence.

6.14.53 After the dissolution of the American army, and the retirement of the commander in chief from the conspicuous station in which he had been placed, the celebrity of his life and manners, associated with the circumstances of a remarkable revolution, in which he always stood on the foreground, naturally turned the eyes of all toward him. The hearts of the whole continent were united, to give him their approbatory voice, as the most suitable character in the United States, to preside at the head of civil government.

6.14.54 {The merits of the commander in chief of the united armies of America, have been duly noticed through the preceding pages of this work, in their order of time; and ample justice has been done to the integrity and valor, to the moderation and humanity, of this distinguished character.[8] The virtues and talents which he really possessed, have been appreciated in a measure consistent with a sacred regard to truth. Imputed genius and lustre of abilities ascribed beyond the common ratio of human capacity and perfection, were the result of his commanding good fortune, which attached to his person and character, the partiality of all ranks and classes of men.

6.14.55 {An exclusive claim to the summit of human excellence, had been yielded as a kind of prescriptive right, to this worthy and justly venerated citizen, from affection, from gratitude, and from the real services rendered his country, under existing circumstances that had never before, and perhaps never will again, take place. His remarkable retention of popular favor and good-will, carried him through a long and perilous war without a change in public opinion, or the loss of confidence in the commander first appointed by the congress of America, to meet the veterans of Britain and other European powers, on hostile ground.

6.14.56 {Thus, the renowned WASHINGTON, without arrogating any undue power to himself, which success and popularity offered, and which might have swayed many more designing and interested men, to have gratified their own ambition at the expense of the liberties of America, finished his career of military glory, with decided magnanimity, unimpeached integrity, and the

most judicious steps to promote the tranquillity of his country. He had previously published a circular letter to each governor of the individual states: this was an elegant address, replete with useful observations and excellent advice to the inhabitants of the United States, in their social, civil, and military capacities. Nor did he neglect on all occasions, after the approach of peace, to inculcate on the soldiery, and to impress on the minds of the people, the necessity of union, subordination, economy, and justice, in the punctual discharge of all contracts both public and private.

{In full possession of the confidence of the people, the applause of his country, the love of the army, the esteem of foreigners, and the warm friendship and respect of the Gallican nation, whose armies and treasures had aided him to glory and victory, general Washington disbanded the troops without noise, inconvenience, or any apparent murmur at his measures. By order of the commander in chief, the peace was celebrated at New York on the first day of December, one thousand seven hundred and eighty-three, with high demonstrations of satisfaction and joy; and on the twenty-third of the same month, general Washington resigned his commission to congress, and, after acting so conspicuous a part on the theatre of war, retired from public scenes and public men, with a philosophic dignity honorary to himself and to human nature. 6.14.57

{Before the separation of the army, the general took a very affectionate leave of his brave and faithful soldiers, and of each of the officers singly. His farewell to his brave associates through the perilous scenes of danger and war, was attended with singular circumstances of affection and attachment. His address to the army was warm, energetic, and impressive. While the sensibility of the commander in chief appeared in his countenance, it was reciprocated in the faces of both officers and soldiers; and in the course of this solemn *adieu*, the big tear stole down the cheeks of men of courage and hardihood, long inured to scenes of slaughter and distress, which too generally deaden the best feelings of the human heart.* 6.14.58

{The mutual recollection of past dangers and fatigue which they had endured together, and the contemplation of a retreat that would probably prevent their ever meeting again, rendered this period of separation, between this band of veteran chieftains and valiant soldiers, a moment of extreme sensibility. Many of them had left their pruning-hooks from principle, and had girded on the sword in defence of civil and religious liberty; they were now returning to the plough, uncertain what kind of matters would in future reap the reward of their labors: they had left many of their brethren on the field of death, the voluntary sacrifices to the independence of their country: they had freed themselves from the fetters of kings, and by their prowess and their perseverance, they had obtained a national independence. 6.14.59

*General Washington's farewell orders to the army of the United States, may be seen in Appendix, Note No. V.[9]

6.14.60 {General Washington was attended to the margin of the river, (where he embarked on his way to Annapolis,) by crowds of spectators of every sex and age; while the procession of officers and gentlemen who followed, with solemn steps and mournful visage, was indicative of a last adieu to their most beloved and respected friend.

6.14.61 {Congress was then sitting at Annapolis, where they received the resignation of the magnanimous and disinterested commander of the army of the United States, with the same emotions of veneration and affection that had agitated the breast of the soldier. He had refused all pecuniary compensation for his services, except what was sufficient for his necessary expenditures, and laid his accounts before congress: he then hastened with all possible celerity, to his peaceful mansion in the state of Virginia: there his return was hailed by the joyous acclamations of his friends, his neighbours, his servants, and the crown of his domestic felicity, his amiable partner. Mrs. Washington had long sighed for the return of her hero, whom she adored as the saviour of her country, and loved as the husband of her fond affection. In this lady's character was blended that sweetness of manners, that at once engaged the partiality of the stranger, soothed the sorrows of the afflicted, and relieved the anguish of poverty, even in the manner of extending her charitable hand to the sufferer.

6.14.62 {Thus possessed of all the virtues that adorn her sex, Mrs. Washington now contemplated the completion of her happiness; and observed afterwards in a letter to the author, that she little thought when the war was finished, that any circumstance could possibly happen to call the general into public life again; that she anticipated that from that moment they should have grown old together, in solitude and tranquillity:—this, my dear madam, was the first and fondest wish of my heart.''*

6.14.63 {But general Washington had yet much to do on the theatre of public action; much for his own fame, and much for the extrication of his country from difficulties apprehended by some, but not yet realized.}

6.14.64 The splendid *insignia* of military command laid aside, the voluntary retirement of general Washington had raised his reputation to the zenith of human glory. Had he persevered in his resolution, never again to engage in the thorny path of public life, his repose might have been forever insured, in the delightful walks of rural occupation. He might, in his retirement on Mount Vernon, have cherished those principles of republicanism which he always professed, as well as the patriotism which he exhibited in the field; and by his disinterested example he might have checked the aspiring ambition of some of his former associates, and handed down his own name to posterity with redoubled lustre:† but man, after long habits of activity, in the

*Mrs. Washington's letter to Mrs. Warren, 1789.

†This was the opinion of some of his most intimate associates at the time; yet doubtless general Washington thought it his duty to aid his country at so critical an era.

meridian of applause, is generally restless in retirement. The difficulty of entirely quitting the luminous scenes on the great stage of public action, is often exemplified in the most exalted characters: thus, even the dignified Washington could not, amidst the bustle of the world, become a calm disinterested spectator of the transactions of statesmen and politicians. His most judicious friends were confident he had no fame to acquire, and wished him to remain on the pinnacle he had already reached; but, urged by the strong voice of his native state, and looked up to by every state in the union, the call was strong and impressive, and he again came forward in public life, though it appeared to be in counteraction of his former determinations.

Thus the former commander of the armies of America had been chosen 6.14.65
one of the delegates for a general convention of the states, and lent his hand to the formation of a new constitution of civil government. This instrument, as above observed, appeared to the public eye to lie open to many objections: it was viewed as doubtful in its origin, dangerous in its aspect, and for a time very alarming to the feelings of men, who were *tremblingly alive* on the smallest encroachment of rights and privileges, for which they had sacrificed their fortunes, immolated their friends, and risked their own lives. General Washington himself observed, when he signed the new constitution, that "it was an experiment on which the destiny of the republican model of government was staked."[10] But the system was adopted with expectations of amendment, and the experiment proved salutary, and has ultimately redounded as much to the honor and interest of America, as any mode or form of government that could have been devised by the wisdom of man.

It is beyond a doubt, that no man in the union had it so much in his power 6.14.66
to assimilate the parties, conciliate the affections, and obtain a general sanction to the new constitution, as a gentleman who commanded their obedience in the field, and had won the veneration, respect, and affections of the people, in the most distant parts of the union. Yet, soon after the organization of the new constitution of government, a struggle began to take place between monarchists and republicans, the consequences of which some future period must disclose. From a variety of new sources; of new objects of magnificence opening before them; of new prospects of wealth anticipated, the spirit of intrigue was matured even among the politicians of yesterday. Some of them were sighing for more liberty, without discretion or judgment to make a proper use of what they already possessed; others were grasping at powers, which neither reason or law, constitutions of their own forming, nor the feelings of nature could justify.

Thus it appeared, convulsions might ensue, great conflicts be sustained, 6.14.67
and great spirits be subdued, before the minds of every class could be perfectly tranquillized, even under the wisest system of human government. But such a people as the Americans cannot suddenly be reduced to a state of slavery; it is a work of time to obliterate old opinions, founded in reason,

and fanned by enthusiasm, till they had become a part of the religious creed of a nation. Notwithstanding the apprehensions which have pervaded the minds of many, America will probably long retain a greater share of freedom than can perhaps be found in any other part of the civilized world. This may be more the result of her local situation, than from her superior policy or moderation. From the general equality of fortune which had formerly reigned among them, it may be modestly asserted, that most of the inhabitants of America were too proud for monarchy, yet too poor for nobility, and it is to be feared, too selfish and avaricious for a virtuous republic.

6.14.68 The people of America however were not yet prepared, like the ungrateful Israelites to ask a king, nor were their spirits sufficiently broken, to yield the "best of their olive-grounds to his servants, or to see their sons appointed to run before his chariots."[11] Yet it was to be regretted, that there soon appeared a class of men, who, though taken from the bar, the shop, or the more simple occupations of life to command armies, and to negociate with foreign nations, had imbibed ideas of distinguished rank and ostentatious titles, incompatible with republican principles, and totally repugnant to the views of the zealous advocates of American freedom. Indeed many of these had been swept off by the hand of time and death; those who still lived in the shade of retirement, observed with regret, that unless counteracted with firmness, the fiat of an individual might become more respected than the general will of the people.

6.14.69 There yet remained a considerable class of these firm adherents to the principles of the revolution; they were strongly impressed with the necessity of an energetic government, and the weakness of the old confederation. They were also sensible of the many difficulties that must arise in the fiscal arrangements of a people, who had been long without a stable medium of trade, while agriculture, commerce and every other pursuit, wore a new face, in consequence of a long war. But they had not contemplated the introduction of new projects, which were thought designed to enrich and ennoble some of the officers of the army, to create a splendid government, and to support the dignity of new orders in the state. These were articles that had made no part of their creed.

6.14.70 The spirit of finance, which, a sensible writer observes, "accumulates woes on the head of a people, by stripping them of the means of subsistence, and what is infinitely more to be regretted, saps the foundations of morality,"[12] had heretofore been only the dream of some overgrown public creditor. A funding system afterwards introduced, attended with all the intricacies of more aged financiers, which never could be understood, and a public debt thereby enhanced, which was probably never intended to be paid, was impregnated in the brain of a young officer* of foreign extraction, an adventurer of a bold genius, active talents, and fortunate combinations,

*Alexander Hamilton.

from his birth to the exalted station to which he was lifted by the spirit of favoritism in American arrangements. Yet when the system appeared, it was embraced with warmth by a considerable class, as the legitimate child of speculation. But it appeared a monster in the eye of a very large part of the community, who viewed it as the parent of a national debt that would hang on the neck of America to the latest generations.

Hence, a train of restless passions were awakened, that excited to activity, and created a rage for project, speculation, and various artifices, to support a factitious dignity, which finally ruined multitudes of unsuspecting citizens. Hence a spirit of public gambling, speculation in paper, in lands, in every thing else, to a degree unparalleled in any nation. Many other contingencies were felt too severely to require a particular specification. 6.14.71

When general Washington was placed in the presidential chair, he doubtless felt all the solicitude for the discharge of his duty, which such a sacred deposite entrusted to his integrity would naturally awaken. His own reputation was blended with the administration of government on those principles of republicanism, which he had always professed, and which he had supported by his sword; while time, circumstances and interests had changed the opinions of many influential characters. 6.14.72

Thus, the favored and beloved Washington, called from his first retirement to act as chief magistrate in the administration of civil government, whatever measures he sanctioned, were considered as the best, the wisest, and most just, by a great majority of the people. In most instances, it is true, he presided with wisdom, dignity, and moderation, but complete perfection is not to be attributed to man. Undue prejudices and partialities often imperceptibly creep into the best of hearts; and with all the veneration due to so meritorious a character, there were many who thought him too much under the influence of military favorites. 6.14.73

A very judicious gentleman well acquainted with ancient history, and with modern politics,* observed, during the administration of general Washington, that "the president of the United States held the hearts of all America in his hand, from the moment of his elevation to the command of her armies, to his honorable retirement to private life, and from his dignified retreat to his inauguration at New York. Placed in the executive chair by the united voice of all parties, it was expected the chief magistrate, whom flattery endows with all perfection, and to whom justice attributes many excellent qualities, would have felt himself above the partialities that usually hang about the human heart; and that, divesting himself of the little prejudices that obtrude and frequently sully the greatest characters, he would have been of no party in his appointments, and that real merit, whether *federal* or *anti-federal*, would have been equally noticed. 6.14.74

"It was not expected, that those gentlemen who wished for a more perfect 6.14.75

*Letter to the author.[13]

system of government, or some amendments to the present, would have been cut off from every social and political claim; and that only the officers of the late army, and the devotees to unconditional ratification, would have been thought worthy of confidence or place under a government that has yet the minds of a considerable part of the people to soothe, and the affections of a judicious and discerning party to conciliate.*

6.14.76 "True policy should have dictated the most impartial distribution of office in the new arrangement. It is a new and untried experiment, into which many of the people think they have been precipitated, without time for due consideration. They begin to feel the weight of taxes and imposts to which they have not been accustomed. They begin to inquire whether all the late energetic exertions, were designed only to subserve the interests of a certain party, and to furnish salaries, sinecures, and extravagant compensations for the favorites of the army and the sycophants of power, to the exclusion of all who had not adopted the creed of passive obedience."

6.14.77 A cool examiner, who may hereafter retrospect the period, from the establishment of the American constitution to the close of the administration of the first president, will judge, on the detail of facts, whether there was or was not just reason for the above observations. Future historic writers may scrutinize and survey past transactions with due criticism and candor, when, whatever may have been observed on any other subject, all will allow that no steps, during the civil functions of president Washington, were so unpopular as the Indian war, sanctioned by the president soon after the operation of the measures of the new government, and his ratification of a treaty with Great Britain, negociated by John Jay, Esq. The appointment of this gentleman to a diplomatic character, while chief justice of the supreme court of the union, was thought very objecionable, and very sensible protests were entered in the senate, against the blending of office. It was thought very incompatible with the principles of the constitution, to act in the double capacity of a negociator abroad and the first officer of justice at home.

6.14.78 Notwithstanding these objections, Mr. Jay was commissioned, and repaired to England, ostensibly to require the surrender of the western posts, the retention of which had brought on the war with the savages, as observed above, and to demand satisfaction for the depredations and spoliations that had for several years been made on American commerce, in defiance of the late treaty of peace. The war in which England was then engaged against France had given a pretext for those spoliations. The happiness and tranquillity of the English nation had not appeared to have been much enhanced, either by the struggle or the termination of the war with their former colonies. After the pacification of the nations at war, and the conclusion of peace between Great Britain and America, such feuds arose in England

*This letter was written before several important amendments were made.

from various sources and causes of discontent, as discovered that the nation were for a time far from being more tranquillized than the United States, previous to their adoption of the present constitution.

Indeed the English nation had few causes of triumph; their systems of policy had been every where deranged, and their fatal mistakes exemplified in the distresses of their eastern dominions, as well as those in the west. The confusion in the East Indies, and the misconduct of their officers there, called aloud for inquiry and reform: and amidst the complicated difficulties which embarrassed the measures of administration, their king became insane, the royal family were at variance, and the heir apparent had many causes of discontent, besides the alienation of his parents, which had been some time increasing. The parliament and the ministry were intriguing for power, and various parties claimed their right to assume the reins of government during the king's disability, and the recollections of all were embittered, by a retrospect of the misfortunes they had experienced during the late war. Their losses had been incalculable, nor could the wisest of their statesmen devise methods for the payment of even the interest of the enormous national debt, and the recovery of the nation to that scale of honour, prosperity and grandeur they had formerly enjoyed. 6.14.79

In this summary view of the state of the British nation for the last ten years, a treaty with England was not a very desirable object in the eyes of many of the most judicious statesmen in America. Perhaps no man was better qualified than Mr. Jay to undertake to negociate a business of so much delicacy and responsibility. He was a gentleman of strict integrity, amiable manners, and complacent disposition; whose talents for negociation had been evinced by his firmness, in conjunction with his colleagues, when they effected a treaty of peace at Paris, in one thousand seven hundred and eighty-three. But while in England, whether from the influence of the court of St. James, or from any predetermined system, with regard to England or France, or from the yielding softness of a mind, naturally urbane and polite, is uncertain. Yet whatever might have been the principal operative cause, it is beyond a doubt, that Mr. Jay fell from that dignified, manly, independent spirit which ought to have marked an American negociator. He was led to succumb too far to the dictations of lord Grenville; this condescension undoubtedly arose, more from an apprehension that he could not do better, than from any inclination to swerve from the interests of his country. The consequence was, he agreed to a treaty highly advantageous to Great Britain, degrading to the United States, very offensive to France, the ally of America in the days of her tribulation, and who was now herself at war with Great Britain, in conjunction with most of the European potentates, combined* to overthrow the newly established government in France. 6.14.80

This government they had erected, through civil convulsions that dis- 6.14.81

*See treaty of Pilnitz.

torted every thing from its ancient form and order. Monarchy was overthrown, their king decapitated, hierarchy abolished, and a superstitious priesthood annihilated, amidst the destruction of the lives of thousands of all classes, and a series of such bloody deeds of horror as freeze the soul of humanity on the recollection. These revolutionary scenes in every nation, are generally attended with circumstances shocking to the feelings of compassion; yet undoubtedly all nations have a right to establish such modes and forms of government as a majority of the people shall think most conducive to the general interest. The various causes which contributed to more distressful scenes of barbarity than are usually exhibited in so short a period, may be left to the discussion of those who have written, or may write the history of the late revolution in France, and the character and conduct of that *wonderful people*.

6.14.82 It was with apparent reluctance that president Washington signed the treaty negociated by Mr. Jay: he hesitated, and observed, "that it was pregnant with events." Many gentlemen of the first penetration foresaw and dreaded the consequences of this diplomatic transaction; some scrupled not to declare, that it was not only "pregnant with events," but "with evils." But, notwithstanding it wore so disgusting an aspect to more than one half the citizens of the United States, it was ratified by a majority in the senate, signed by the president, and became the supreme law of the land.

6.14.83 This ratification created a division of sentiment, which was artfully wrought up, until a disseveration of opinion appeared throughout the union. In congress, the parties on every great question seemed nearly equally divided; each had their partisans: the spirits of the people were agitated and embittered to an alarming degree, by the extreme point of opposition in which the instrument was viewed. The whole body of the people were designated under traits of distinction which never ought to exist in the United States; and a struggle took place, the consequences of which some future period must disclose.

6.14.84 It is disgraceful indeed to Americans, who had just broken the shackles of foreign domination, to submit to the unhappy distinction of British or French partisans. But the attachment of many to their old allies, to whom they felt themselves obliged, of many others to the British nation, its modes of government and its commerce, occasioned such a stigma to mark them for a time.

6.14.85 America should indeed forever have maintained a character of her own, that should have set her on high ground, whence she might have looked down from the pinnacle of independence and peace, and only have pitied the squabbles, the confusion, and the miseries of the European world. A quarter of the globe blessed with all the productions of nature, increasing astonishingly in population, improving rapidly in erudition, arts, and all the sciences necessary to the happiness of man; bounded by a vast ocean, by rivers, by

mountains, that have been the wonder of ages, ought forever to hold herself independent on any power on earth.

Imagination may indulge a pleasing reverie, and suppose for a moment, 6.14.86
that if the government of the United States had reared a defence around her sea-board, that might have reached to the heavens, by her bold inhibitions against all foreign connexions, or commercial and political intercourse with distant nations, it might have been the best barrier to her peace, liberty, and happiness. But there are no mounds of separation, either natural or artificial, and perhaps had it been practicable there should have been, they might have been penetrated by a thirst for wealth; commerce might have shaken them to the foundation, or ambition might have broken down the battlements.

{Those subsequent circumstances in American story which have been 6.14.87
cursorily mentioned above [the postwar conflicts with the British and Indians in the northwest] suggest the reflection, that it might have been happy for the United States, and happier for the individual "who weeps alone its lot of wo," if, instead of extending their views over the boundless desert, *a Chinese wall* had been stretched along the Apalachian ridges, that might have kept the nations within the boundaries of nature.[14] This would have prevented the incalculable loss of life and property, and have checked the lust of territory, wealth, and that ambition which has poured out streams of innocent blood on the forlorn mountains. The lives of our young heroes were too rich a price for the purchase of the acres of the savages, even could the nations be extinguished, who certainly have a prior right to the inheritance: this is a theme on which some future historians may more copiously descant.

{The acquisition and possession of territory seems to be a passion inwove 6.14.88
in the bosom of man: we see it from the peasant who owns but a single acre, to the prince who commands kingdoms, and wishes to extend his domains over half the globe. This is thought necessary at some times to distance troublesome neighbours, at others to preserve their own independence; but if the spring of action is traced, it may generally be found in the inordinate thirst for the possession of power and wealth.}

Instead of guarding round the infant republic of America, by a total de- 6.14.89
tachment from foreign connexions, affection, or influence, we have already seen the inhabitants of the United States, interesting themselves beyond the common feelings of humanity, in the operations of European wars, dissensions, politics, and government.

It is not strange that the astonishing revolution in France should be beheld 6.14.90
with very extraordinary emotions. The world had viewed the excision of a king, queen, and the royal family of the house of Bourbon. The existing generation had witnessed the extinction of the claims of a long line of ancestral dignitaries, that had been supported from Charlemagne to Lewis

the sixteenth, under all the appendages of despotism that had oppressed its millions, until they had reached that point of degradation and servility, beyond which the elastic mind of man can bend no farther. This yoke was broken, and the bars burst in sunder by the strong hand of the people, and by the operations of a resentment which discovered more than the imaginary reactions of nature, among the inhabitants of a vast domain. This people had been too long viewed as a nation of slaves, and their struggles for freedom and the equal rights of man ought to have been cherished by Americans, who had just obtained their own independence, by a resistance that had cost them much of the best blood of their citizens.

6.14.91 But the Gallican nation at this period was not viewed with that cordiality by some classes in America, which might have been expected. The government of the United States manifestly discovered a coolness to a nation which had so essentially aided the great American cause, in the darkest of its days; a nation with whom the United States had formed treaties, and become the allies, from interest, necessity and gratitude, and to whom they yet felt obligations that could not be easily cancelled.

6.14.92 The president had indeed published a proclamation of neutrality, and made great professions of friendship to the republic of France. He also sent an envoy to reside there, while the government of France was in the hands of the directory: but it was thought the appointment was not the most judicious.

6.14.93 A character eccentric from youth to declining age; a man of pleasure, pride, and extravagance, fond of the trappings of monarchy, and implicated by a considerable portion of the citizens of America, as deficient in principle, was not a suitable person for a resident minister in France at so important a crisis. The Gallican nation was in the utmost confusion: the effervescence of opposition to their revolution boiling high in most parts of Europe. Dissensions were heightening in America, and existing treaties in danger of being shaken. These circumstances required a man of stable principles, and respectability of character, rather than a dexterous agent of political mischief, whose abilities and address were well adapted either for private or court intrigue.

6.14.94 The exigencies of affairs, both at home and abroad, required an American negociator of different habits and manners. A supersedure took place. Mr. Munroe, a gentleman of unimpeachable integrity, much knowledge and information, united with distinguished abilities, great strength of mind, and a strong attachment to the republican system, was appointed and sent forward by president Washington.

6.14.95 A full detail of the state and situation of France, on the arrival of Mr. Munroe in a diplomatic character, impressions that had been made on the directory, relative to American affairs, the conduct of his predecessor,* and

*Governeur Morris.

his own negociations, may be seen at large in a general view afterwards given by him of existing prejudices which had arisen from misrepresentation, neglect or design, from the excision of the king of France, until the recal and return of Mr. Munroe to his native country. It was generally believed that America derived no advantage from the former minister's repairing to England, after his mission was ended in France. He there continued for some time, fomenting by his letters the jealousies which had already arisen between the United States of America and the republic of France.

These jealousies were increased by a variety of causes, and the dissensions of party in America arose to such a height, as to threaten the dissolution of that strong cement, which ought to bind the colonies together forever. These differences of opinion, with the assuming demeanor of some of his officers, who often urged to measures that he neither approved nor wished for, rendered the president of the United States less happy than he was before he sanctioned by his name a treaty, which was disgusting to almost every state in the Union, and which perhaps he never would have signed, but from the impressive influence of heads of departments, and other favorites about his person. This was a class of men who had been implicated by a considerable portion of the people, as prompting the president of the United States to call out a body of militia, consisting of fifteen thousand men, ostensibly to subdue a trivial insurrection at the westward, which it was asserted by many judicious persons, acquainted with the circumstances, might have been subdued by five hundred only.* They attributed this effort to a wish to try the experiment of the promptitude with which an army might be called forth to subserve the purposes of government, to enhance the dignity of office, and the supreme power of the first magistrate.† There was certainly a class who aimed not so much to promote the honor of the national character, as to establish the basis of a standing army, and other projects approaching to despotic sway, which cannot be supported in America, without the aid of that dangerous engine. 6.14.96

It is dangerous indeed for the ear of the chief magistrate to be open to favorites of such a complexion. Such an one will probably neglect his old associates, and confer places upon men of not the first abilities in the Union. These are selected only in times of imminent danger; after which their services, integrity and zeal, are too frequently repaid by the ingratitude of the people, which joins the cry of the artful, who have never labored in the vineyard, to send them into oblivion. 6.14.97

The men most opposed to the British treaty, negociated in one thousand seven hundred and ninety-four, and who stated their objections on the most rational grounds, were generally those who had been distinguished for their 6.14.98

*See Findley's history of the disturbances in the back parts of Pennsylvania.[15]

†General Hamilton was believed to be the prime mover and conductor of this extraordinary business.

patriotism, firmness and abilities. They had been very influential in a variety of departments, previous to the year one thousand seven hundred and seventy-five. Nor had they ever relaxed in their energies during the course of the war, to effect the emancipation of their country from the tyranny of the crown of Britain, and to obtain the independence of the United States.

6.14.99 These circumstances, with the approach of a period when nature requires rest, rendered the weight of government oppressive to declining age. The man who had long commanded, in a remarkable manner, the affection, the esteem, and the confidence of his country, again abdicated his power, took leave of the cares of state, and retired a second time from all public occupations, to the delightful retreats of private life on his highly cultivated farm, on the banks of the Patowmack.

6.14.100 Previous to general Washington's second return to his rural amusements, he published a farewel address to the inhabitants of the United States, fraught with advice worthy of the statesman, the hero, and the citizen.[16] He exhorted them to union among themselves, economy in public expenditure, sobriety, temperance, and industry in private life. He solemnly warned them against the danger of foreign influence, exhorted them to observe good faith and justice toward all nations, to cultivate peace and harmony with all, to indulge no inveterate antipathies against any, or passionate attachments for particular nations, but to be constantly awake against the insidious wiles of foreign influence, observing, that "this was one of the most baneful foes of republican government." This was indeed, after they were split into factions; after an exotic taste had been introduced into America, which had a tendency to enhance thier public and to accumulate their private debts; and after the poison of foreign influence had crept into their councils, and created a passion to assimilate the politics and the government of the United States nearer to the model of European monarchies than the letter of the constitution, by any fair construction, would admit. It was also, after luxury had spread over every class, while the *stimulus* to private industry was in a degree cut off by the capture of their shipping by the belligerent powers, under various pretences of the breach of neutrality.

6.14.101 After this period new contingencies arose, and new discussions were required with regard to foreign relations and connexions, that had no pacific operation, or any tendency to conciliate the minds, or to quiet the perturbed spirits of existing parties.

6.14.102 The operations and the consequences of the civil administration of the first president of the United States, notwithstanding the many excellent qualities of his heart, and the virtues which adorned his life, have since been viewed at such opposite points, that further strictures on his character and conduct shall be left to future historians, after time has mollified the passions and prejudices of the present generation. A new constitution, and an extensive government, in which he acted eight years as chief magistrate, open a new field of observation, for future pens to descant on the merits or

demerits of a man, admired abroad, beloved at home, and celebrated through half the globe: this will be done according to the variety of opinions which will ever exist among mankind, when character is surveyed in the cool moments of calm philosophy, which contemplates the nature and passions of man, and the contingent circumstances, that lift him to the skies, or leave him in the shade of doubtful opinion.

Public opinion is generally grounded on truth; but the enthusiasm to which the greatest part of mankind are liable, often urges the passions to such a degree of extravagance, as to confound the just ratio of praise or reproach: but the services and merits of general Washington, are so deeply engraven on the hearts of his countrymen, that no time or circumstance will or ought ever to efface the lustre of his well earned reputation. 6.14.103

We have already seen, that after the peace, the infant confederated states exhibited scenes and disclosed projects that open too wide a field for discussion, to bring down a regular historical work, farther than the moment which winds up the drama of the military, political, and civil administration of a man, whose name will have a conspicuous place in all future historical records.

History may not furnish an example of a person so generally admired, and possessed of equal opportunities for making himself the despotic master of the liberties of his country, who had the moderation repeatedly to divest himself of all authority, and retire to private life with the sentiments expressed by himself in the close of his farewel address: he there observed—"I anticipate with pleasing expectation that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow citizens, the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors, and dangers." 6.14.104

The commander of the armies of the United States, has been conducted from the field of war, and from the zenith of civil command, to the delicious retreats of peaceful solitude. We now leave him in the shade of retirement, with fervent wishes that he may wind up the career of human life in that tranquillity which becomes the hero and the Christian.

The administration of his immediate successor we shall also leave, after some general observations on the character of a man who long acted in the most conspicuous departments of American affairs. The veracity of an historian requires, that all those who have been distinguished, either by their abilities or their elevated rank, should be exhibited through every period of public life with impartiality and truth. But the heart of the annalist may sometimes be hurt by political deviations which the pen of the historian is obliged to record.[17] 6.14.105

Mr. Adams was undoubtedly a statesman of penetration and ability; but his prejudices and his passions were sometimes too strong for his sagacity and judgment. 6.14.106

After Great Britain had acknowledged the independence of the dismembered colonies, Mr. Adams was sent to England, with a view of negociating a treaty of commerce; but the government too sore from the loss of the colonies, and the nation too much soured by the breach, nothing was done. He however resided there four or five years; and unfortunately for himself and his country, he became so enamoured with the British constitution, and the government, manners, and laws of the nation, that a partiality for monarchy appeared, which was inconsistent with his former professions of republicanism. Time and circumstances often lead so imperfect a creature as man to view the same thing in a very different point of light.

After Mr. Adams's return from England, he was implicated by a large portion of his countrymen, as having relinquished the republican system, and forgotten the principles of the American revolution, which he had advocated for near twenty years.

6.14.107 The political errors of men of talents, sometimes spring from their own passions; often from their prejudices imbibed by local or incidental circumstances; and not unfrequently from the versatile condition of man, which renders it difficult, at one period, to decide on the best system of civil government; or at another, on the most effectual means of promoting the general happiness of mankind. This may lead the candid mind to cast a veil over that ambiguity which confounds opinion, and that counteraction of former principles, which often sets a man in opposition to himself, and prevents that uniformity of conduct which dignifies, and that consistency which adorns the character.

Pride of talents and much ambition, were undoubtedly combined in the character of the president who immediately succeeded general Washington, and the existing circumstances of his country, with his own capacity for business, gave him an opportunity for the full gratification of the most prominent features of his character.

6.14.108 Endowed with a comprehensive genius, well acquainted with the history of men and of nations; and having long appeared to be actuated by the principles of integrity, by a zeal for the rights of men, and an honest indignation at the ideas of despotism, it was viewed as a kind of political phenomenon, when discovered that Mr. Adams's former opinions were beclouded by a partiality for monarchy. It may however be charitably presumed, that by living long near the splendor of courts and courtiers, with other concurring circumstances, he might become so biassed in his judgment as to think that an hereditary monarchy was the best government for his native country.* From his knowledge of men, he was sensible it was

*Circumstances may in some future day render it necessary to adopt this mode of government in the United States. Rome had not a master until the people had become prepared for the yoke by their dissensions and follies. These, more than the arm of Cæsar, rivetted their chains, and sunk them to a level with the most abject and servile nations.

easy to turn the tide of public opinion in favor of any system supported by plausible argumentation. Thus he drew a doleful picture of the confusion and dissolution of all republics, and presented it to the eyes of his countrymen, under the title of a "Defence of their constitutions."[18] This had a powerful tendency to shake the republican system through the United States. Yet the predilection of Americans in general, in favor of a republican form of government was so strong, that few had the hardiness to counteract it, until several years after the United States had become an independent nation.

6.14.109 On Mr. Adams's return from England, he undoubtedly discovered a partiality in favor of monarchic government, and few scrupled to assert for a time, that he exerted his abilities to encourage the operation of those principles in America. But any further strictures are unnecessary in this place on the character of a gentleman, whose official stations, abilities and services, amidst the revolutionary conflict, may probably excite some future historian to investigate the causes of his lapse from former republican principles, and to observe with due propriety on his administration and its consequences while president of the United States.

6.14.110 It is with more pleasure the writer records, that notwithstanding any mistakes or changes in political opinion, or errors in public conduct, Mr. Adams, in private life, supported an unimpeachable character; his habits of morality, decency and religion, rendered him amiable in his family, and beloved by his neighbours. The opinions of a man of such sobriety of manners, political experience, and general knowledge of morals, law and government, will ever have a powerful effect on society, and must naturally influence the people, more especially the rising generation, the young men, who have not had the opportunity of acquainting themselves with the character, police, and jurisprudence of nations, or with the history of their own country, much less with the principles on which the American revolution was grounded.

6.14.111 There is a propensity in mankind, to enlist themselves under the authority of names, and to adopt the opinions of men of celebrity, more from the fashion of the times, than from the convictions of reason. Thus with the borrowed language of their chieftain, they impose upon themselves, until they think his opinions are their own, and are often wrought up to such a fierce spirit of contention, that they appear ready to defend them in all the cruel modes of the savage, who is seldom actuated by motives of candor and forgiveness of injuries.

6.14.112 Both history and experience have proved, that when party feuds have thus divided a nation, urbanity and benevolence are laid aside; and, influenced by the most malignant and corrupt passions, they lose sight of the sacred obligations of virtue, until there appears little difference in the ferocious spirits of men in the most refined and civilized society, or among the rude and barbarous hordes of the wilderness. Though some symptoms of

this degradation of the human character have appeared in America, we hope the cloud is fast dissipating, and that no vicissitudes in human affairs, no intrigues of the interested, nor any mistakes of upright men will ever damp the prospect of the establishment and continuance of a republican system, which appears to be best adapted to the genius of Americans. This form of government has the voice of the majority; the energies and sacrifices of the sons of Columbia, have been exerted to leave a republican form, defined, modified and digested, as a model to promote the happiness of posterity.

6.14.113 Yet there is still a division of parties, and a variety of sentiment, relative to a subject that has heated the imaginations, and divided the opinions of mankind, from the rise of the Roman republic to the destruction of her splendid empire; and from that day to the present, when the divisions of the literati of every age, have called the attention of genius and ability to speculate and to dissent in their ideas of the best modes and forms of government.

6.14.114 It may be a subject of wonder and inquiry, that though so many ages have elapsed, and so great a part of the world been civilized and improved, that the science of politics is still darkened by the variety of opinions that prevail among mankind. It may be beyond the reach of human genius, to construct a fabric so free as to release from subordination, nor in the present condition of mankind ought it ever to be wished. Authority and obedience are necessary to preserve social order, and to continue the prosperity or even the existence of nations. But it may be observed, that despotism is not always the certain consequence of monarchy, nor freedom the sure result of republican theories.

6.14.115 It would be presumption in the writer, to entangle herself on a subject of such magnitude and importance, as to decide peremptorily, whether aristocratic, monarchic, or democratic government, is best adapted to the general happiness of the people. This shall be left to bolder pens; she will indulge little farther aberration of her's, after the expression of her wishes, that amidst the heterogeneous opinions of a theoretic age, America may not trifle away her advantages by her own folly and levity, nor be robbed of any of the essential rights which have cost her so dear, by the intrigues or ambition of any class of men.

6.14.116 {It is indeed true, that from a general attention to early education, the people of the United States were better informed in many branches of literature, than the common classes of men in most other countries.[19] Yet many of them had but a superficial knowledge of mankind; they were ignorant of the intrigues of courts, and though convinced of the necessity of government, did not fully understand its nature or origin; they had generally supposed there was little to do, but to shake off the yoke of foreign domination, and annihilate the name of *king*.

6.14.117 {They were not generally sensible, that most established modes of strong government are usually the consequences of fraud or violence, against the systems of democratic theorists. They were not sensible, that from age to

age the people are flattered, deceived, or threatened, until the hood-winked multitude set their own seals to a renunciation of their privileges, and with their own hands rivet the chains of servitude on their posterity. They were totally fearless of the intrigues or the ambition of their own countrymen, which might in time render fruitless the expense of their blood and their treasures. These they had freely lavished to secure their equality of condition, their easy modes of subsistence, and their exemption from public burdens beyond the necessary demands for the support of a free and equal government. But it was not long before they were awakened to new energies, by convulsions both at home and abroad.

{New created exigencies, or more splendid modes of government that might hereafter be adopted, had not yet come within the reach of their calculations. Of these, few had yet formed any adequate ideas, and fewer indeed were sensible, that though the name of *liberty* delights the ear, and tickles the fond pride of man, it is a jewel much oftener the play-thing of his imagination, than a possession of real stability: it may be acquired to-day in all the triumph of independent feelings, but perhaps to-morrow the world may be convinced, that mankind know not how to make a proper use of the prize, generally bartered in a short time, as a useless bauble, to the first officious master that will take the burden from the mind, by laying another on the shoulders of ten-fold weight. 6.14.118

{This is the usual course of human conduct, however painful the reflection may be to the patriot in retirement, and to the philosopher absorbed in theoretic disquisitions on human liberty, or the portion of natural and political freedom to which man has a claim. The game of deception is played over and over to mislead the judgment of men, and work on their enthusiasm, until by their own consent, hereditary crowns and distinctions are fixed, and some scion of royal descent is entailed upon them forever. Thus by habit they are ready to believe, that mankind in general are incapable of the enjoyment of that liberty which nature seems to prescribe, and that the mass of the people have not the capacity nor the right to choose their own masters. 6.14.119

{The generous and disinterested of all nations must, however, wish to see the American republic fixed on such a stable basis, as to become the admiration of the world. Future generations will then look back with gratitude, on the era which wafted their ancestors from the European shores: they will never forget the energetic struggles 9f their fathers, to secure the natural rights of men. These are improved in society, and strengthened by civil compacts: these have been established in the United States by a race of independent spirits, who have freed their posterity from the feudal vassalage of hereditary lords. It is to be hoped, that the grim shades of despotic kings will never hover in the clouds of the American hemisphere, to bedizzen the heads of the sons of Columbia, by imaginary ideas of the splendid beams of royalty. 6.14.120

6.14.121 {Let it never be said of such a favored nation as America has been, as was observed by an ancient historian, on the rise, the glory, and the fall of the republic of Athens, that "the inconstancy of the people was the most striking characteristic of its history."[20] We have, with the historian who depictured the Athenian character, viewed with equal astonishment, the valor of our soldiers and the penetration of the statesmen of America. We wish for the duration of her virtue; we sigh at every appearance of decline; and perhaps, from a dread of deviations, we may be suspicious of their approach when none are designed.}

6.14.122 The speculative of every age have theorized on a system of perfect republicanism, but the experiment has much oftener failed in practice, among all mankind, than been crowned with success. Those that have come nearest thereto, the free states of Greece, the Achean league, the Amphyctions, and other confederacies, fell under the power of Philip, Alexander, and their successors. The republic of Athens, the most conspicuous among the ancients, corrupted by riches and luxury, was wasted and lost by the intrigues of its own ambitious citizens.

6.14.123 The Roman commonwealth, the proud boast, the pattern, and exemplar of all republics, fell under the despotism of a long line of Cæsars, generally the most debauched and brutal race of emperors that ever disgraced human nature. More modern experiments, Venice, and indeed all the Italian states, who boasted their freedom, were subjected to the tyranny of an oligarchy or aristocracy, frequently more severe and cruel than that of monarchy. In England, the struggles of Hampden and his virtuous associates were lost, and the strong reasonings of the patriots of that day in favor of freedom were obliterated, after the death of Charles, by the artful, the hypocritical, and the arbitrary Cromwell; and the most voluptuous of kings was restored, and re-seated on the throne of Britain.

6.14.124 Thus, from the first of the Stuarts to the last of the line of Brunswick who have yet reigned, their republican opinions and the freedom of the nation have been in the wane, and have finally sunk into an empty name under the tyranny of George the third. Indeed the most enlightened, rational, and independent characters in Great Britain continue still to defend the principles of liberty with their pens, while they have had reason to apprehend its total extinction through the realm.

6.14.125 Innumerable other instances might be adduced of the defeat of republicanism, in spite of the efforts of its most zealous friends: yet this is no proof that this system of government may not be more productive of happiness to mankind than that of monarchy or aristocracy.[21] The United States of America have now a fair experiment of a republican system to make for themselves; they may perhaps be possessed of more materials that promise success than have ever fallen to the lot of any other nation. From the peculiar circumstances of the emigration of their ancestors, there is little reason to fear that a veil of darkness, tyranny, and barbarity will soon

overspread the land to which they fled. These were a set of men very different in principles and manners from any that are to be found in the histories of colonization, where it may be observed, the first planters have been generally either men of enterprise for the acquisition of riches or fame, or convicted villains transported from more civilized societies.

In the outset of the American revolution, the arm of foreign power was opposed by a people uncontaminated by foreign luxury, the intricacies of foreign politics, or the theological jargon of metaphysical sceptics of foreign extract. Philosophy then conveyed honorable ideas of science, of religion, and morals: the character is since degraded by the unprincipled sarcasms of men of letters, who assume the dignity of philosophic thought. Instead of unfolding the sources of knowledge, and inculcating truth, they often confound without convincing, and by their sophistical reasonings leave the superficial reader, their newly initiated disciple, on the comfortless shores of annihilation. 6.14.126

{America has indeed obtained incalculable advantages by the revolution; but in the innumerable list of evils attendant on a state of war, she, as well as Great Britain, has lost her thousands of brave soldiers, veteran officers, hardy seamen, and meritorious citizens, that perished in the field, or in captivity, in prison-ships, and in the wilderness, since the beginning of the conflict.[22] She has lost an immense property by the conflagration of her cities, and the waste of wealth by various other means. She has in a great measure lost her simplicity of manners, and those ideas of mediocrity which are generally the parent of content; the Americans are already in too many instances hankering after the sudden accumulation of wealth, and the proud distinctions of fortune and title. They have too far lost that general sense of moral obligation, formerly felt by all classes in America. The people have not indeed generally lost their veneration for religion, but it is to be regretted, that in the unlicensed liberality of opinion there have been some instances, where the fundamental principles of truth have been obscured. This may in some measure have arisen from their late connexions with other nations; and this circumstance may account for the readiness of many, to engraft foreign follies and crimes with their own weak propensities to imitation, and to adopt their errors and fierce ambition, instead of making themselves a national character, marked with moderation, justice, benignity, and all the mild virtues of humanity. 6.14.127

{But when the seeds of revolution are planted, and the shoots have expanded, the various causes which contribute to their growth, and to the introduction of a change of manners, are too many to recount. The effervescence of party rage sets open the flood-gates of animosity, and renders it impossible to calculate with any degree of accuracy, on subsequent events. Not the most perspicacious human eye can foresee, amidst the imperious spirit of disunion and the annihilation of former habits and connexions, the benefits that may result from the exertions of virtue, or the evils that may 6.14.128

arise from problematic characters which come forward, the new-born offspring of confusion, and assume merit from the novelty of their projects, and the inscrutability of their designs. These are like hot-bed plants, started from extraneous causes; prematurely forced into existence, they are incapable of living but in the sunshine of meridian day. Such characters often hurry into irretrievable mischief, before time has ripened the systems of men of more principle and judgment.

6.14.129 {Thus, after the conclusion of peace, and the acknowledgment of the independence of the United States by Great Britain, the situation of America appeared similar to that of a young heir, who had prematurely become possessed of a rich inheritance, while his inexperience and his new felt independence had intoxicated him so far, as to render him incapable of weighing the intrinsic value of his estate, and had left him without discretion or judgment to improve it to the best advantage of his family.

6.14.130 {The inhabitants of the United States had much to experiment in the new rank they had taken, and the untrodden ground which they were now to explore, replete with difficulties not yet digested or apprehended by the most sagacious statesmen. They had obtained their independence by a long and perilous struggle against a powerful nation: we now view them just emancipated from a foreign yoke, the blessings of peace restored upon honorable terms, with the liberty of forming their own governments, enacting their own laws, choosing their own magistrates, and adopting manners the most favorable to freedom and happiness. Yet it is possible that their virtue is not sufficiently stedfast, to avail themselves of those superior advantages.

6.14.131 {The restless nature of man is forever kindling a fire, and collecting fuel to keep the flame alive, that consumes one half the globe, without the smallest advantage to the other, either in a moral or in a political view. Men profit little by the observations, the sufferings, or the opinions of others: it is with nations as with individuals, they must try their own projects, and frequently learn wisdom only by their own mistakes. It is undoubtedly true, that all mankind learn more from experience than from intuitive wisdom: their foolish passions too generally predominate over their virtues; thus civil liberty, political and private happiness, are frequently bartered away for the gratification of vanity, or the aggrandizement of a few individuals, who have art enough to fascinate the undistinguishing multitude.

6.14.132 {If the conduct of the United States should stand upon record, as a striking example of the truth of this observation, it must be remembered that this is not a trait peculiar to the character of America, it is the story of man; past ages bear testimony to its authenticity, and future events will convince the unbelieving.

{It is an unpleasing part of history, when "corruption begins to prevail, when degeneracy marks the manners of the people, and weakens the sinews of the state."[23] If this should ever become the deplorable situation of the

United States, let some unborn historian, in a far distant day, detail the lapse, and hold up the contrast between a simple, virtuous, and free people, and a degenerate, servile race of beings, corrupted by wealth, effeminated by luxury, impoverished by licentiousness, and become the *automatons* of intoxicated ambition.}

These observations are not confined to any particular nation or character; 6.14.133
the historians of Britain, and the philosophers and poets of France, Germany, and England, are perhaps equally culpable; and it is to be regretted that America has not preserved a national character of her own, free from any symptoms of pernicious deviation from the purest principles on morals, religion, and civil liberty. She has been conducted through a revolution that will be ever memorable, both for its origin, its success, and the new prospects it has opened both at home and abroad. The consequences of this revolution have not been confined to one quarter of the globe, but the dissemination of more liberal principles in government, and more honorable opinions of the rights of man, and the melioration of his condition, have been spread over a considerable part of the world.

But men, prone to abuse the best advantages lent by the beneficent hand 6.14.134
of providence, sometimes sport them away, or confound causes with effects, which lead to the most erroneous conclusions. Thus it has been the recent fashion of courtiers, and of a great part of the clergy, under monarchic governments, to impute the demoralization and scepticism that prevails, to the spirit of free inquiry, as it regards the rights of civil society. This fashion has been adopted by all anti-republicans in America; but it may be asked, whether the declamation and clamor against the dissemination of republican opinions on civil government, as originating the prevalence of atheistical folly, is founded on the basis of truth?

Examine the history of the ancient republics of Greece, and the splendid 6.14.135
commonwealth of Rome; was not the strictest regard paid to the worship of their gods, and a sacred observance of their religious rites enjoined, until the Grecian republics were overthrown by ambitious individuals? It was then that sceptical disputes more generally employed the philosophers; in consequence of which the rulers and the people sunk into an indifference to all religion. The rich city of Athens particularly, was early corrupted by the influx of wealth, the influence of aristocratic nobles, and the annihilation of every principle connected with religion.

Survey the Roman commonwealth before its decline, when it was most 6.14.136
worthy of the imitation of republicans. Was not a general regard paid to the worship of their deities, among this celebrated people, and a superstitious attention observed, relative to omens, prodigies and judgments, as denounced and executed by their gods, until republicanism was extinguished, the commonwealth subverted, and the sceptre of a single sovereign was stretched over that vast empire? It was then that Caligula set up his horse to be worshipped, as a burlesque on religion, and the sycophants of the court

encouraged every caprice of their emperor. The people did not become so universally corrupt as to throw off all regard for religion, and all homage to the deities of their ancestors, until the libidinous conduct of their august sovereigns, and the nobles of the court, set the example.

Nor do we read in more sacred history, through all the story of the Israelites, that the fool ever said in his heart, there is no God, until under the dominion of kings.

6.14.137 It may be observed in the character of more modern republics, that religion has been the grand palladium of their institutions. Through all the free states of Italy, democracy and religion have been considered in union; some of them have indeed been darkened by superstition and bigotry, yet not equally hoodwinked under republican governments, as are the neighbouring kingdoms of Spain and Portugal, subjected to monarchic despotism.

6.14.138 By no fair deduction can it be asserted, that the scepticism and the late appearance of a total disregard to religious observances in France, are in consequence of the democratic struggles of the nation. The dereliction of all religious principles among the *literati* of France, and the abominable opinions of some of their philosophers, cannot be too much detested; but they have sprung from various causes, remote from political freedom, and too complicated to trace their origin, in a page of cursory observations.

6.14.139 The French have long been a highly civilized, refined, luxurious nation, divided into two classes, the learned and the infidel, the ignorant and superstitious, both equally pursuing present pleasure, with little regard to moral principle, the laws of reason, of God, or of nature, any further than prompted by the gratifications of the moment. The first were patronised by the court; the rich and the noble had been generally infidel for more than a century before the revolution. The last were poor, depressed and degraded by monarchic and prelatic power, until their indigence and misery produced universal murmur, and revolution burst on a nation, too ignorant to investigate the sources of their own wretchedness, and too volatile and impatient to wait the operation of measures adapted for relief by men of more information and ability than themselves.

6.14.140 Thus from the ignorance and imbecility of a people degraded by oppression, and long the dupes of priestly as well as monarchic tyranny, they naturally followed the lead of their superiors. These had long been the infidel disciples of Voltaire, D'Alembert, and Diderot; the atheistical opinions of these men, and others of their character, had been cherished only by courtiers and academicians, until near the middle of the eighteenth century, when their numerous adherents, who had concealed their pernicious opinions under the veil of modesty, threw off the mask, came out openly, and set religion at defiance. But the shackles of superstition were not yet broken, nor were any remarkable struggles made in favor of civil liberty, until the flame was caught by their officers and soldiers, and resistance to tyranny taught them, while in union with the sober and pious Americans. They were

animated by the principles of freedom while they lent their arm in aid of the energies of a people, whose character had never been impeached as favorers of atheistical opinions, and who were only exerting their abilities, both in the cabinet and the field, in supporting the civil and social rights of men.

On the return of this veteran band of officers and soldiers to their own nation, they found as they had left, a voluptuous court, a licentious and extravagant nobility, a corrupted priesthood, and an ignorant multitude spread over the face of one of the finest countries on earth. Yet the murmurs against tyranny and oppression had become so general, that some ineffectual efforts for relief had been made without any digested system of means that might produce it. Previous to this period, some of their parliaments had discovered spirit and energy to resist the despotic mandates of the crown: but the arm of royalty was yet too potent to receive any check, while the whole nation was held in bondage by the strong hand of their *grand monarch*. 6.14.141

These combined circumstances brought forward an assembly of notables, and a national convention, neither of which were capable of quieting the universal discontent and disaffection to royalty that prevailed. Hence the destruction of the Bastile; the imprisonment and decapitation of their king and queen; the extermination of their nobility and clergy; the assassination of many of their first literary characters; and the indiscriminate murder of ladies of the fairest fame and virtue, and women of little consideration; of characters of the highest celebrity, of nobles, magistrates, and men without name or distinction. 6.14.142

These sudden eruptions of the passions of the multitude, spread, like the lava of a volcano, throughout all France, nor could men of correct judgment, who aimed only at the reform of abuses, and a renovation in all the departments, check the fury of the torrent. This confusion and terror within, and an army without, sent on by the combined despots of Europe, with the professed design of subjecting the nation, and reestablishing the monarchy of France, gave an opportunity to ambitious, unprincipled, corrupt, and ignorant men, to come forward, under pretence of supporting the rights and liberties of mankind, without any views but those of disorder and disorganization. Thus in the midst of tumult and confusion, was indulged every vicious propensity, peculation, revenge, and all the black passions of the soul. The guillotine was glutted with the blood of innocent victims, while the rapidity of execution, and their jealousy of each other, involved the most guilty, and cut down many of the blackest miscreants, as well as the most virtuous characters in the nation. 6.14.143

But from the rise and progress of this period of horror, this outrage of humanity, it is evident that it originated more from former monarchic and priestly oppression, than from the operation of infidel opinions, united with republican efforts. In consequence of this state of things, though there were very many characters of the best intentions, principles and abilities, ani- 6.14.144

mated and active for the promotion of civil liberty in France, they had to regret with all the humane, benevolent, and pious, that while engaged to eradicate the superstitions of their country, and the arbitrary strides of their civil rulers, law was annihilated and even the government of Heaven renounced. Thus, all religious opinions were set afloat, the passions let loose, and all distinctions levelled. Decency, humanity, and every thing else respected in civil society, disappeared, until the outrages of cruelty and licentiousness resembled the regions of pandemonium. Thus was republicanism disgraced by the demoralization of the people, and a cloud of infidelity darkened the hemisphere of France, but there is nothing to countenance the opinion, that scepticism was the origin or the result of the struggles of the Gallican nation in favor of civil liberty.*

6.14.145 This people may have had their day of licentious enjoyment, of literary fame, of taste, elegance and splendor; they have abused his gifts and denied the God of nature, who, according to the usual course of his government among men, may devote them to that ruin which is the natural consequence of luxury and impiety. Yet the God of providence, when national punishment has been sufficiently inflicted, may bring them back again to a due sense of religion and order; while the seeds of liberty, which they have disseminated far and wide, may ripen in every soil, and in full maturity extend the branches of general freedom, through Europe, and perhaps throughout the world. After all, we are inadequate to any calculation on future events; the ways of heaven are hidden in the depths of time, and a small circumstance frequently gives a new turn to the most probable contingencies that seem to measure the fate of men or of empires.†

6.14.146 We will now leave this extraordinary nation, which has furnished materials for history of the most interesting nature, as it regards the character of man; their civil, political, and religious institutions, and the moral and social ties that connect society. From them we will look over to the island of Britain, and survey the gradations of principles, manners, and science, there. We shall find that lord Herbert, one of the first and most notorious infidels in England,[24] sprung up under kingly government; and none will deny that scepticism has prevailed, and has been gathering strength both in France and England, under monarchy, even before the correspondencies of British infidels with St. Evremond, and other sceptical Frenchmen. Hobbes,

*The above summary of the French revolution was written several years before monarchy was re-established in France.

†The duke D'Alencour, who visited the family of the author, in his exile under the tyranny of Robespierre, observed justly, that "the sources of disorder in France were so innumerable, that it was impossible to conjecture when tranquillity would be again restored, or what masters or what government the nation would sit down under, after their violent convulsions subsided." Through a very interesting conversation relative to the causes and consequences of the revolution, the deepest marks of grief and sensibility sat on the countenance of the noble sufferer, expressive of the pain he felt for the miseries of his country, and the misfortunes of his family.

Hume, and Bolingbroke, were subjects of a king of England; and while their disciples have been increasing, and their deistical opinions have poisoned the minds of youth of genius, and shaken the faith of some even in clerical professions, yet no democratic opinions have been generally spread over the nation.

6.14.147 In the zenith of British monarchy, and the golden age of nobility, while republicanism has been quite out of fashion, has not the cause of Christianity suffered by the fascinating pen of a Gibbon, whose epithets charm while they shock, and whose learned eloquence leads the believer to pause and tremble for the multitudes that may be allured by the sophistry of his arguments, his satirical wit, the elegance of his diction, and the beautiful antithesis of many of his periods.

The elegance of his style confers an "alarming popularity on the licentiousness of his opinions." The rise and fall of the Roman republic will probably be read by many who have not the inclination or the opportunity to study the writings of Locke, Boyle, Butler, Newton, Clarke, and many others, who have by their example and by the pen supported and defended the Christian system on principles of reason and argument, that will forever adorn the character of Englishmen. A writer of ingenuity has observed, that, "there are probably more sceptics in England than in any other country";* yet we do not infer that the examples of infidelity that disgrace the world, by blasting the principles of truth, though nurtured under princely patronage, are in consequence of the cherishing influence of monarchy. Nor is it more just to suppose that the writings of French philosophists, or the jejune trumpery that has for years exuded from the brain of other theorists of that nation, is the result of speculative opinions, with regard to civil liberty.

6.14.148 It is neither a preference to republican systems, nor an attachment to monarchic or aristocratic forms of government that disseminates the wild opinions of infidelity. It is the licentious manners of courts of every description, the unbridled luxury of wealth, and the worst passions of men let loose on the multitude by the example of their superiors. Bent on gratification, at the expense of every moral tie, they have broken down the barriers of religion, and the spirit of infidelity is nourished at the fount; thence the poisonous streams run through every grade that constitutes the mass of nations.

6.14.149 It may be further observed, that there is a variety of additional causes which have led to a disposition among some part of mankind, to reject the obligations of religion, and even to deny their God. This propensity in some may easily be elucidated, without casting any part of the odium on the spirit of free inquiry relative to civil and political liberty, which had been widely disseminated, and had produced two such remarkable revolutions as those

*Dr. F. A. Wenderburne. He gives his reason for his assertion, page 475 of his view of England at the close of the eighteenth century.[25]

of America and France. It may be imputed to the love of novelty, the pride of opinion, and an extravagant propensity to speculate and theorize on subjects beyond the comprehension of mortals, united with a desire of being released from the restraints on their appetites and passions: restraints dictated both by reason and revelation; and which, under the influence of sober reflection, forbid the indulgence of all gratifications that are injurious to man. Further elucidations, or more abstruse causes, which contribute to lead the vain inquirer, who steps over the line prescribed by the Author of nature, to deviations from, and forgetfulness of its Creator, and to involve him in a labyrinth of darkness, from which his weak reasonings can never disentangle him, may be left to those who delight in metaphysical disquisitions.

6.14.150 The world might reasonably have expected, from the circumstances connected with the first settlement of the American colonies, which was in consequence of their attachment to the religion of their fathers, united with a spirit of independence relative to civil government, that there would have been no observable dereliction of those honorable principles, for many ages to come. From the sobriety of their manners, their simple habits, their attention to the education and moral conduct of their children, they had the highest reason to hope, that it might have been long, very long, before the faith of their religion was shaken, or their principles corrupted, either by the manners, opinions, or habits of foreigners, bred in the courts of despotism, or the schools of licentiousness.

6.14.151 This hope shall not yet be relinquished. There has indeed been some relaxation of manners, and the appearance of a change in public opinion not contemplated when revolutionary scenes first shook the western world. But it must be acknowledged, that the religious and moral character of Americans yet stands on a higher grade of excellence and purity, than that of most other nations. It has been observed, that "a violation of manners has destroyed more states than the infraction of laws."* It is necessary for every *American,* with becoming energy to endeavour to stop the dissemination of principles evidently destructive of the cause for which they have bled. It must be the combined virtue of the rulers and of the people to do this, and to rescue and save their civil and religious rights from the outstretched arm of tyranny, which may appear under any mode or form of government.

6.14.152 Let not the frivolity of the domestic taste of the children of Columbia, nor the examples of strangers of high or low degree, that may intermix among them, or the imposing attitude of distant nations, or the machinations of the bloody tyrants of Europe, who have united themselves, and to the utmost are exerting their strength to extirpate the very name of *republicanism,* rob them of their character, their morals, their religion, or their liberty.

6.14.153 It is true the revolution in France had not ultimately tended to strengthen

*Montesquieu.[26]

the principles of republicanism in America. The confusions introduced into that unhappy nation, by their resistance to despotism, and the consequent horrors that spread dismay over every portion of their territory, have startled some in the United States, who do not distinguish between principles and events, and shaken the firmness of others, who have fallen off from their primary object, and by degrees returned back to their former adherence to monarchy. Thus, through real or pretended fears of similar results, from the freedom of opinion disseminated through the United States, dissensions have originated relative to subjects not known in the constitution of the American republic. This admits no titles of honor or nobility, those powerful springs of human action; and from the rage of acquisition which has spread far and wide, it may be apprehended that the possession of wealth will in a short time be the only distinction in this young country. By this it may be feared that the spirit of avarice will be rendered justifiable in the opinion of some, as the single road to superiority.

The desire of distinction is inherent in the bosom of man, notwithstanding the equality of nature in which he was created. Few are the numbers of elevated souls, stimulated to act on the single motive of disinterested virtue; and among the less powerful incentives to great and noble actions, the pursuit of honour, rank, and titles, is undeniably as laudable as that of riches. The last too generally narrows the mind, debases it by meanness, and renders it disgracefully selfish, both in the manner of hoarding and squandering superfluous wealth; but the ambitious, stimulated by a thirst for rank, consider the want of generosity a stain on the dignity of high station. 6.14.154

It may be asked, are not those states the most likely to produce the greatest number of wise and heroic spirits, where some mark of elevation, instead of pecuniary compensation, is affixed to the name and character of such, as have outstripped their contemporaries in the field of glory or integrity? A Roman knight ennobled for his patriotism or his valour, though his patrimonial inheritance was insufficient for a modern flower-garden, was beheld with more veneration than the most wealthy and voluptuous citizen. But we shall not here decide, how far honorary rewards are consistent with the principles of republicanism. Indeed some have asserted, that "nobility is the Corinthian capital of polished states"; but an ingenious writer has observed, that "a titled nobility is the most undisputed progeny of feudal barbarism; that the august fabric of society is deformed and encumbered by such Gothic ornaments. The massy doric that sustains it is labor, and the splendid variety of arts and talents that solace and embellish life, form the decorations of its Corinthian and Ionic capitals."* 6.14.155

It is to be regretted that Americans are so much divided on this point as well as on many other questions; we hope the spirit of division will never be wrought up to such a height as to terminate in a disseveration of the states, 6.14.156

*Mackintosh's Vindiciæ Galliciæ, p. 77, 79.[27]

or any internal hostilities. Any civil convulsions would shake the fabric of government, and perhaps entirely subvert the present excellent constitution; a strict adherence to which, it may be affirmed, is the best security of the rights and liberties of a country that has bled at every vein, to purchase and transmit them to posterity. The sword now resheathed, the army dismissed, a wise, energetic government established and organized, it is to be hoped many generations will pass away in the lapse of time, before America again becomes a theatre of war.

6.14.157 Indeed the United States of America embrace too large a portion of the globe, to expect their isolated situation will forever secure them from the encroachments of foreign nations, and the attempts of potent Europeans to interrupt their peace. But if the education of youth, both public and private, is attended to, their industrious and economical habits maintained, their moral character and that assemblage of virtues supported, which is necessary for the happiness of individuals and of nations, there is not much danger that they will for a long time be subjugated by the arms of foreigners, or that their republican system will be subverted by the arts of domestic enemies. Yet, probably some distant day will exhibit the extensive continent of America, a portrait analogous to the other quarters of the globe, which have been laid waste by ambition, until misery has spread her sable veil over the inhabitants. But this will not be done, until ignorance, servility and vice, have led them to renounce their ideas of freedom, and reduced them to that grade of baseness which renders them unfit for the enjoyment of that rational liberty which is the natural inheritance of man. The expense of blood and treasure, lavished for the purchase of freedom, should teach Americans to estimate its real worth, nor ever suffer it to be depreciated by the vices of the human mind, which are seldom single. The sons of America ought ever to bear in grateful remembrance the worthy band of patriots, who first supported an opposition to the tyrannic measures of Great Britain. Though some of them have long since been consigned to the tomb, a tribute of gratitude is ever due to their memory, while the advantages of freedom and independence are felt by their latest posterity.[28]

6.14.158 The military character of the country has rung with deserved applause; many of the heroes who have been sacrificed in the field, are justly recollected with a sigh, but the laborious statesmen who with ability and precision defined the rights of men, and supported the freedom of their country; without whose efforts America never would have had an army, are many of them neglected or forgotten. Private virtue may be neglected; public benefits disregarded, as they affect the individual, while at the same time society feels their cherishing beams, which like the silent rills that water the great garden of nature, pour forth their bounties, unasked, on the whole family of ungrateful man.

6.14.159 It has been justly said, that "there is seldom any medium between grat-

itude for benefits, and hatred to the authors of them; a little mind is hurt by the remembrance of obligations, begins by forgetting, and not uncommonly ends by persecution."—And, that "that circle of beings, which dependence gathers around us, is almost ever unfriendly; they secretly wish the terms of this connexion more equal. Increasing the obligations which are laid upon such minds, only increases their burden; they feel themselves unable to defray the immensity of their debt."[29] Thus the names of many of the men, who laid the foundations of American independence, and defended the principles of the revolution, are by the efforts of the artful, depreciated, if not vilified. The ancient Persians considered ingratitude as the source of all enmities among men. They considered it "an indication of the vilest spirit, nor believed it possible for an ungrateful man to love the gods, or even his parents, friends, or country."

The partiality to military honor, has a tendency to nourish a disposition for arbitrary power; and wherever there is a tyrannic disposition, servility is its concomitant: hence, pride of title and distinction, and an avarice for wealth to support it. Where these passions predominate, ingratitude is usually added; this makes a *tripodium* to lift the ambitious to the summit of their nefarious designs. Under an established despotism mankind are generally more prone to bend than to resist; losing their ideas of the value of independence, the timid, the doubtful, and the indiscreet, for the most part, determine in favor of whatever wears the appearance of established authority. This should be a lasting admonition, which should forever prevent the vesting any individual or body of men with too much power. 6.14.160

The people of the United States are bound together in sacred compact and a union of interests which ought never to be separated. But the confederation is recent, and their experience immatured; they are however generally sensible, that from the dictatorship of Sylla to the overthrow of Cæsar, and from the ruin of the Roman tyrant to the death of the artful Cromwell, deception as well as violence have operated to the subversion of the freedom of the people. They are sensible, that by a little well-concerted intrigue, an artificial consideration may be obtained, far exceeding the degree of real merit on which it is founded. They are sensible that it is not difficult for men of moderate abilities, and a little personal address, to retain their popularity to the end of their lives, without any distinguished traits of genius, wisdom, or virtue. They are sensible, that the characters of nations have been disgraced by their weak partialities, until their freedom has been irretrievably lost in that vortex of folly, which throws a lethargy over the mind, till awakened by the fatal consequences which result from arbitrary power, disguised by specious pretexts, amidst a general relaxation of manners. 6.14.161

An ingenious writer has observed, that "the juvenile vigor of reason and freedom in the new world, where the human mind was unencumbered with that vast mass of usage and prejudice, which so many ages of ignorance had 6.14.162

accumulated to load and deform society in Europe," brought forward those declarations of the rights of men, which hastened the emancipation of their own country, and diffused light to others.[30]

It is equally just to observe, that in the eighteenth century, the enlightened writers of Europe had so clearly delineated the natural rights of men, and the equal freedom of the human race, before they by compact had yielded a part for the preservation and safety of the whole, as to have a powerful effect on public opinion. This had manifestly, in some degree, broken the fetters that had long enthralled and dissipated the darkness that shrouded the mind, under the influence of superstitious bigotry, and their ideas of the divine right of kings. The Colossus of tyranny was shaken, and the social order meliorated by learned sages, who evinced that government, as elegantly expressed by one,* is not "a scientific subtilty, but a practical expedient for general good; all recourse to elaborate abstractions is frivolous and futile, and the grand question in government is not its source, but its tendency; not a question of right, but a consideration of expediency."

"All the governments in the world," the same writer adds, "have been fortuitously formed;[31] they are the produce of chance, not the work of art. They have been altered, impaired, improved, and destroyed by accidental circumstances, beyond the foresight or control of wisdom. Their parts thrown up against present emergencies, formed no systematic whole. It was certainly not to have been presumed, that these *fortuitous governments* should have surpassed the works of intellect, and precluded all nearer approaches to perfection."

6.14.163 Perfection in government is not to be expected from so imperfect a creature as man; experience has taught, that he falls infinitely short of this point; that however industrious in pursuit of improvements in human wisdom, or however bold the inquiry that employs the human intellect, either on government, ethics, or any other science, man yet discovers a deficiency of capacity to satisfy his researches, or to announce that he has already found an unerring standard on which he may rest.

6.14.164 Perhaps genius has never devised a system more congenial to their wishes, or better adapted to the condition of man, than the American constitution. At the same time, it is left open to amendments whenever its imperfections are discovered by the wisdom of future generations, or when new contingencies may arise either at home or abroad, to make alterations necessary. On the principles of republicanism was this constitution founded; on these it must stand. Many corrections and amendments have already taken place, and it is at the present period† as wise, as efficient, as respectable, as free, and we hope as permanent, as any constitution existing on earth. It is a system admired by statesmen abroad, envied by distant

*Mackintosh.

†The beginning of the nineteenth century, which circumscribes the limits of these supplementary observations subjoined to the History of the Revolution.

nations, and revered by Americans. They pride themselves on this palladium of safety, fabricated at a dangerous crisis, and established on the broad basis of the elective voice of the people. It now depends on their own virtue, to continue the United States of America an example of the respectability and dignity of this mode of government.

Notwithstanding the advantages that may be derived, and the safety that may be felt, under so happy a constitution, yet it is necessary to guard at every point, against the intrigues of artful or ambitious men, who may subvert the system which the inhabitants of the United States judged to be most conducive to the general happiness of society. 6.14.165

It is now indeed at the option of the sons of America to delegate such men for the administration of government, as will consider the designation of this truth as a sacred deposite, which binds them to the indispensable duty of aiming solely at the promotion of the civil, the economical, the religious, and political welfare of the whole community. They therefore cannot be too scrutinous on the character of their executive officers. No man should be lifted by the voice of his country to presidential rank, who may probably forget the republican designation, and sigh to wield a sceptre, instead of guarding sacredly the charter from the people. It is to be hoped, that no American citizen will hereafter pant for nobility. The senators of the United States should be wise, her representatives uncorrupt, the judiciary firm, equitable, and humane, and the bench of justice ever adorned by men uninfluenced by little passions, and adhering only to the principles of law and equity! The people should be economical and sober; and the clergy should keep within their own line, which directs them to enforce the moral obligations of society, and to inculcate the doctrines of peace, brotherly kindness, and the forgiveness of injuries, taught by the example of their Divine Master, nor should they leave the appropriate duties of their profession, to descant on political principles or characters!* Such a happy combination of propriety and dignity in each department might prevent all apprehensions of danger to religion from the sceptical absurdities of unprincipled men; neither the foolish, the learned, or licentious, would be able to sap the foundations of the kingdom of Christ. In the present state of society and general information, there is no reason to fear the overthrow of a system, by the efforts of modern infidels, which could not be shaken by the learned 6.14.166

*It is true that this respectable order of men interested themselves on the great subject of opposition to the aggressions of the British parliament; this was sometimes done at the request of legislators, who thought every aid necessary to awaken the people to a sense of their rights. But the ground on which the clergy came forward on political subjects, was then very different from the present party disputes. There was then, (with few exceptions) a united opposition of the whole collective body of the people, against a foreign power aiming to deprive them of their civil and religious privileges, and to load them with taxes, impositions and innovations, novel and grievous. The dissensions are now wholly internal, which render the influence of every pious clergyman necessary to soothe the passions and heal the animosities enkindled among the people of his own particular charge.

unbelievers of Greece, the persecutions of the Cæsars, nor the power of the Roman empire.

6.14.167 All who have just ideas of the equal claims of mankind to share the benefits of a free and benign government, and virtue sufficient to aid its promotion, will fervently pray, that the narrow passions of the selfish, or the ambitious views of more elevated minds, may never render fruitless the labors of the wise and vigilant patriot, who sacrificed much to this noble purpose, nor defeat the severe efforts of the soldier, who fell in the field, or stain the laurels of such as have survived the conflict.

6.14.168 However literature has been improved, and knowledge diffused by the pen of genius, and the industry of liberal minded and erudite instructors, there has been a conspiracy formed against the dissemination of republican opinions, by interested and aspiring characters, eager for the establishment of hereditary distinctions and noble orders. This is a conspiracy formidable for the wealth and talents of its supporters in Europe, and not less so from the same description of men in America. This should stand as a beacon before the eyes of an infant republic, recently established by the suffrages of the inhabitants of the United States, who already have had to fear the *progress of opinion,* which produced the American revolution, might change its complexion, and there might yet be a tyranny to depose, more formidable than kings.

6.14.169 Public opinion, when grounded on false principles, and dictated by the breath of ambitious individuals, sometimes creates a tyranny, felt by the minority more severely, than that usually inflicted by the hand of the sceptred monarch. From this tyranny of opinion often starts a political enthusiasm, which, as expressed by the cardinal de Retz, "would at one period exalt to a throne, and at another, conduct the enthusiast to a gallows."[32] This tyranny of opinion is spread or extinguished by factitious circumstances, sometimes combining to exalt the mind to the most sublime ideas of human freedom; at others, beclouding it with prejudices which sink it into habitual servility, when reason languishes until overwhelmed by a torpor became too general to awaken, without producing convulsions more to be dreaded than submission, and too painful for the contemplation of benevolent minds.

6.14.170 Great revolutions ever produce excesses and miseries at which humanity revolts. In America indeed, it must be acknowledged, that when the late convulsions are viewed with a retrospective eye, the scenes of barbarity were not so universal as have been usual in other countries that have been at once shaken by foreign and domestic war. Few histories have recorded examples of equal moderation and less violation of the feelings of humanity, where general revolt and revolution had pervaded such an extensive territory. The enthusiasm of opinion previous to the year one thousand seven hundred and seventy-five, bore down opposition like a torrent, and enkindled the flame which emancipated the United States. Yet, it was not stimu-

lated by a fierce spirit of revenge, which, in similar circumstances too frequently urges to cruelties which can never be licensed by the principles of justice or freedom, and must ever be abhorrent to humanity and benevolence.

The United States may congratulate themselves on the success of a revolution which has done honor to the human character, by exhibiting a mildness of spirit amidst the ferocity of war, that prevented the shocking scenes of cruelty, butchery, and slaughter, which have too often stained the actions of men, when their original intentions were the result of pure motives and justifiable resistance. They have been hailed by distant nations in terms of respect and applause for the glorious and successful stand made by them in favor of the liberties of mankind. They have now to maintain their well-earned fame, by a strict adherence to the principles of the revolution, and the practice of every public, social and domestic virtue. 6.14.171

The enthusiastic zeal for freedom which had generally animated all classes throughout the United States, was retained, with few exceptions, to the conclusion of the war, without any considerable appearance of relaxation in any part of the union, until the sword was resheathed, and the conflict terminated by a general peace. After this indeed, though the spirit for freedom was not worn down, a party arose, actuated by different principles; new designs were discovered, which spread suspicions among the people, that the object of their exertions was endangered, from circumstances they had never calculated as probable to take place in their country, until some ages had elapsed. But notwithstanding the variety of exigencies, and the new opportunities which offered to interested individuals, for the aggrandizement of family, and the accumulation of wealth, no visible dereliction appeared, nor any diminution of that general partiality in favor of republicanism which had taken deep root in the minds of the inhabitants of the United States. These principles did not apparently languish, until some time after the adoption of the new constitution; exertions were then made to damp their ardor by holding up systems of government asserted by some to be better adapted to their happiness, and absolutely necessary for the strength and glory of the American states. The illusion was however discovered, and a constitutional ardency for general freedom revived among the people. The feelings of native freedom among the sons of America, and their own good sense taught them, that they did not need the appendages of royalty and the baneful curse of a standing army to support it. They were convinced, that rational liberty might be maintained, their favorite system of republicanism might be revived, established, and supported, and the prosperity of their country heightened, at a less gorgeous expense than a resort to the usages of monarchic states, and the introduction of hereditary crowns and the proud claims of noble ancestry, which usually involve the mass of the people in poverty, corruption, degradation, and servility. 6.14.172

Under the benediction of Divine Providence America may yet long be 6.14.173

protected from sanguine projects, and indigested measures, that have produced the evils felt or depictured among less fortunate nations, who have not laid the foundations of their governments on the firm basis of public virtue, of general freedom, and that degree of liberty most productive of the happiness of mankind in his social state. But from the accumulated blessings which are showered down on the United States, there is reason to indulge the benign hope, that America may long stand a favored nation, and be preserved from the horrors of war, instigated either by foreign combinations or domestic intrigue, which are equally to be deprecated.

6.14.174 Any attempt, either by secret fraud, or open violence, to shake the union, to subvert the constitution, or undermine the just principles, which wrought out the American revolution, cannot be too severely censured. It is true, there has been some agitation of spirits between existing parties; but doubtless the prudence of the inhabitants of the United States will suffer this to evaporate, as the cloud of the morning, and will guard against every point that might have the smallest tendency to break the union. If peace and unanimity are cherished, and the equalization of liberty, and the equity and energy of law, maintained by harmony and justice, the present representative government may stand for ages a luminous monument of republican wisdom, virtue, and integrity. The principles of the revolution ought ever to be the pole-star of the statesman, respected by the rising generation; and the advantages bestowed by Providence should never be lost, by negligence, indiscretion, or guilt.

6.14.175 The people may again be reminded, that the elective franchise is in their own hands; that it ought not to be abused, either for personal gratifications, or the indulgence of partisan acrimony. This advantage should be improved, not only for the benefit of existing society, but with an eye to that fidelity which is due to posterity. This can only be done by electing such men to guide the national counsels, whose conscious probity enables them to stand like a Colossus, on the broad basis of independence, and by correct and equitable arrangements, endeavor to lighten the burdens of the people, strengthen their unanimity at home, command justice abroad, and cultivate peace with all nations, until an example may be left on record of the practicability of meliorating the condition of mankind.

6.14.176 The internal strength of America is respectable, and her borders are fenced by the barriers of nature. May the wisdom, vigour, and ability of her native sons, teach her to surmount every difficulty that may arise at home or abroad, without ever calling in the aid of *foreign* relations! She wants not the interference of any other nation, to give a model to her government, or secretly influence the administration by bribes, flatteries, or threats. The enterprising spirit of the people seems adapted to improve their advantages, and to rival in grandeur and fame those parts of creation which for ages have been meliorating and refining, until the period of decay seems to have arrived, that threatens the fall of some of the proudest nations. Humanity

recoils at a view of the wretched state of vassalage, in which a great part of mankind are involved. Yet, America may sit tranquil, and only extend her compassion to the European world, which exhibits the shambles of despotism, where the purple of kings is stained by the blood of their subjects, butchered by thousands to glut the ambition of a weak individual, who frequently expires himself before the cup of his intoxication is full. The vesture of royalty is however still displayed, and the weapons of war spread death over three fourths of the globe, without satiating the thirst that drinks up rivers of human gore, when the proud victor wipes the stained lip and covers the guilty visage with a smile at the incalculable carnage of his own species, by his mandates and his myrmidons.

6.14.177 It will be the wisdom, and probably the future effort of the American government, forever to maintain with unshaken magnanimity, the present neutral position of the United States.* The hand of nature has displayed its magnificence in this quarter of the globe, in the astonishing rivers, lakes, and mountains, replete with the richest minerals and the most useful materials for manufactures. At the same time, the indigenous produce of its fertile lands yields medicine, food, and clothing, and every thing needful for man in his present condition. America may with propriety be styled a land of promise; a happy climate, though remarkably variegated; fruitful and populous, independent and free, both necessity and pleasure invite the hand of the industrious to cherish and cultivate the prolific soil, which is ready to yield all that nature requires to satisfy the reasonable wishes of man, as well as to contribute to the wealth, pleasure, and luxury of the inhabitants. It is a portion of the globe that appears as a fair and fertile vineyard, which requires only the industrious care of the laborers to render it for a long time productive of the finest clusters in the full harvest of prosperity and freedom, instead of yielding thorns, thistles, and sour grapes, which must be the certain fruits of animosity, disunion, venality, or vice.

6.14.178 Though in her infantile state, the young republic of America exhibits the happiest prospects. Her extensive population, commerce, and wealth, the progress of agriculture, arts, sciences, and manufactures, have increased with a rapidity beyond example. Colleges and academies have been reared, multiplied, and endowed with the best advantages for public instruction, on the broad scale of liberality and truth. The effects of industry and enterprise appear in the numerous canals, turnpikes, elegant buildings, and well constructed bridges, over lengths and depths of water that open, and render the communication easy and agreeable, throughout a country almost without bounds. In short, arts and agriculture are pursued with avidity, civilization spreads, and science in full research is investigating all the sources of human knowledge.

*The limits of the present work preclude any historical record subsequent to the year 1801.

6.14.179 Indeed the whole country wears a face of improvement, from the extreme point of the northern and western woods, through all the southern states, and to the vast Atlantic ocean, the eastern boundary of the United States. The wisdom and justice of the American governments, and the virtue of the inhabitants, may, if they are not deficient in the improvement of their own advantages, render the United States of America an enviable example to all the world, of peace, liberty, righteousness, and truth. The western wilds, which for ages have been little known, may arrive to that stage of improvement and perfection, beyond which the limits of human genius cannot reach; and this last civilized quarter of the globe may exhibit those striking traits of grandeur and magnificence, which the Divine Œconomist may have reserved to crown the closing scene, when the angel of his presence will stand upon the sea and upon the earth, lift up his hand to heaven, and swear by Him that liveth for ever and ever, that there shall be time no longer.

1. Paragraphs 6.14.4–13 (enclosed in braces) are taken from chapter 30.

2. [David Williams], *Lessons to a Prince by an Old Statesman* (London 1791), lesson 3.

3. Blackstone, *Commentaries* III, 381.

4. Beccaria, *An Essay on Crimes and Punishments,* introduction.

5. Although the principle is consistent with Williams' *Lessons to a Prince,* the quotation is from the Massachusetts Constitution (Bill of Rights), Art. VII; Thorpe, *Federal and State Constitutions* III, 1890.

6. Franklin's speech was widely reprinted in Boston as elsewhere; but Mrs. Warren's reference is to a distorted account and criticism appearing in the *Massachusetts Gazette* on 14 December by a Newbury-Port correspondent who objected that "it is beneath the dignity of a statesman to consent to a constitution he confessedly dislikes, and to recommend a mode of government that may last for ages, and involve one quarter of the globe—because it is his opinion that no future convention may have abilities and integrity to hit on a better system. It is not at all strange, that the doubting Doctor . . . should at that advanced period, express his *doubts* of the propriety of lending his signature to a system he seems to intimate will finally terminate in despotism." What Franklin said, according to the published report to which this correspondent was referring, was that the Constitution "can only end in despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other." There is nothing about involving one quarter of the globe. The *Massachusetts Gazette* 3 December 1787; see the reply of Clito on 18 December. For Madison's account of this speech, see Farrand II, 641–43 (17 September).

7. The "ingenious writer" has not been identified.

8. Paragraphs 6.14.54–63 are taken from chapter 30. Mercy Warren's view of Washington should be compared with that of John Marshall, *Life of George Washington* (1804–7), 5 vols.

9. These orders are not reprinted here.

10. The source of this quotation has not been found.

11. I Samuel 8:14, 11.

12. The "sensible writer" has not been identified.

13. Not found in published works.

14. Paragraphs 6.14.87–88 are taken from chapter 30, pp. 313–14.

15. William Findley, *History of the Insurrection in the Four Counties of Pennsylvania in the Year MDCCXCIV* (Philadelphia 1796).

16. "Farewell Address," 19 September 1796, Washington, *Writings* XXXV, 214–38.

17. The following characterization of Adams was the cause of a lengthy warm correspondence between him and the author, causing a rupture of several years between these old friends, mended finally with the aid of Elbridge Gerry. The very interesting correspondence between the Adams and Warren families is printed in *Collections of the Massachusetts Historical Society*, 5th ser., IV (1878), 317–511.

18. *Defence of the Constitutions of the United States*, 3 vols. 1787–89 (*Works* IV, 271–588, and V).

19. Paragraphs 6.14.116–21 are taken from chapter 30, pp. 324–27.

20. Polybius, *The Histories* VI, 44.

21. Cf. *The Federalist* no. 9, 50–51.

22. Paragraphs 6.14.127–32 are taken from chapter 30, pp. 333–37.

23. The source of this quotation has not been found.

24. Lord Edward Herbert of Cherbury (1583–1648), known as father of the Scottish School of intellectualist philosophers, foreshadowers of eighteenth-century Deism.

25. G. F. A. Wendeborn, *A View of England Towards the Close of the Eighteenth Century* (London 1791), 2 vols.

26. *The Spirit of Laws* XIX, ch. 12.

27. Sir James Mackintosh, *Vindicae Gallicae, A Defense of the French Revolution and its English Admirers* (*Miscellaneous Essays* [New York 1886] 416–17).

28. Cf. Impartial Examiner 5.14.14 n.15. See Abraham Lincoln, "Address before the Young Men's Lyceum of Springfield, Illinois, 27 January, 1838," *Collected Works* I, 108–15.

29. The source of this quotation has not been found.

30. The source of this quotation has not been found.

31. *Vindicae Gallicae* (*Miscellaneous Essays* 422–23). Mackintosh says that all the governments *except* that in the United States have been fortuitously formed.

32. The source of this quotation has not been found.

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